

Authorized Signature

**DEFENDANT'S
EXHIBIT** No 6

FETTERMAN'S
EXHIBIT No 7

PETITIONER'S EXHIBIT

ING DATE 04/17/89 OFFICE OF ASSESSMENTS INQUIRY 11 TIME 09:54-26
 PROPERTY NO. DIST GROUP CLASS OCC. AREA CARD-NO DEL P/M DATE
 04-12-040901 04 1 PH 04 HL 00032 03196 11/10/88
 LIVINGSTON ETHEL C PRIMARY DES... A-478 AC-58 WAUGH AV
 P.O. BOX 86 SUPPLEMENTAL DESC...
 GLYNDEN MD 21071 IMPRV ADDRESS 00002 WAUGH AV
 NEAREST INTER... WE DON BUTLER RD-ES
 STRUCTURE... 443-200-A STATE CODE...

LOT... 048 FRONT... 125.50 TRANSFER DATE... 05/16/85
 BLOCK... 96 BACK... 114.72 TRANSFER NO... 010578
 SECTION... 00440 SIDE1... 173.01 MURKIN'S PHILE
 PLAT... 0720 SIDE2... 173.41 GROUND RENT...
 BOOK... 0591 FORMER OWNER, LIVINGSTON GERALD E
 FOLIO... 50 FT LOT... (26.021) (M)

FULL VALUE LAND IMPRV PREF LAND CURTILAGE EX LAND EX IMPRV BLIND
 CURRENT 18,450 68,252 0 0
 PROPOSED 30,450 93,750

BASIS YRMD TAX LAND TAX IMPRV ADVAL EX LAND EX IMPRV EX ADVAL
 09/90 ASSESSMT 8809 30,000 39,000
 08/89 ASSESSMT 8711 23,000
 07/88 ASSESSMT 8611 31,500

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PETITIONER'S EXHIBIT

PETITIONER'S EXHIBIT

PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

BY THE BOARD OF ZONING ADJUSTMENTS OF BALTIMORE COUNTY
 The undersigned, legal owner of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 205.3, Side Yard, to be permitted...
 side yard of 20' instead of required 15'.

Property is to be posted and advertised as prescribed by Zoning Regulations.
 I, the undersigned, agree to pay expenses of these various advertising, posting, etc., upon filing of this petition and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.
 Contract purchaser: William E. Haddon
 Address: 21071 Waugh Ave., Glyndon, Md.
 Petitioner's Attorney: [Signature]
 Subscribed to by the Zoning Commissioner of Baltimore County, this 13th day of August, 1991.

PETITION FOR ZONING VARIANCE FROM AREA AND HEIGHT REGULATIONS

BY THE BOARD OF ZONING ADJUSTMENTS OF BALTIMORE COUNTY
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PETITION FOR ZONING VARIANCE

TO THE BOARD OF ZONING ADJUSTMENTS OF BALTIMORE COUNTY
 The undersigned, legal owner of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 205.3, Side Yard, to be permitted...
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 Address: 21071 Waugh Ave., Glyndon, Md.
 Petitioner's Attorney: [Signature]
 Subscribed to by the Zoning Commissioner of Baltimore County, this 13th day of August, 1991.

PETITIONER'S EXHIBIT

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We, the undersigned residents of Glyndon, support the Petition for Special Hearing and Variance, Item No. 67, Case No. 92-71-SPHA, filed by Fred and Abigail Goldman for the property known as No. 2 and 2A Waugh Avenue, Glyndon, Maryland.

- | NAME | ADDRESS |
|--------------------------------|---------------------------------------|
| 1. <u>Martha D. Longin</u> | <u>10 Waugh Ave, Glyndon</u> |
| 2. <u>Michael B. B...</u> | <u>25 Waugh Ave, Glyndon</u> |
| 3. <u>Carol Smith</u> | <u>2 Waugh Ave, Glyndon</u> |
| 4. <u>Edward R. Smith</u> | <u>8 Waugh Ave, Glyndon</u> |
| 5. <u>James W. Shaffner</u> | <u>5 Waugh Ave, Glyndon Md 21071</u> |
| 6. <u>James W. Shaffner</u> | <u>5 Waugh Ave, Glyndon Md 21071</u> |
| 7. <u>John W. Sanders</u> | <u>4605 Prospect Ave.</u> |
| 8. <u>W. R. De Sandro</u> | <u>4605 Prospect Ave.</u> |
| 9. <u>John D. Green</u> | <u>4612 Prospect Ave.</u> |
| 10. <u>Lawrence E. Green</u> | <u>4612 Prospect Ave.</u> |
| 11. <u>Elizabeth Brownson</u> | <u>12 Waugh Ave, Glyndon</u> |
| 12. <u>James Brownson</u> | <u>19 Waugh Ave, Glyndon</u> |
| 13. <u>Frank Mull</u> | <u>4700 Butler Rd, Glyndon 21071</u> |
| 14. <u>Kim Matanyel</u> | <u>4609 Butler Ave, Glyndon 21071</u> |
| 15. <u>Veronica H. Harnett</u> | <u>21 Waugh Ave, Glyndon 21071</u> |

addition, Baltimore County installed a sewer connection at the property line, and assessed front foot benefits against the lot, which are paid annually along with the ad valorem property taxes. (T.p.23)

The properties are located in Glyndon, a suburban community founded in the 1870's. (T.p.72) The area is a historic one characterized by a variety of housing types, large and small, grand and modest, on various sized lots, ranging from narrow lots having smaller dimensions than the subject property, to large lots. (T.p.73-75) The lot is within two historic districts and the design and compatibility of any improvements to the lot are subject to review and approval by the Landmarks Commission of Baltimore County. (T.p.72)

In 1989, prior to acquiring the property, Appellants investigated the status of the lot with appropriate county agencies, including the assessment office. (T.p.44) Further, they reviewed the prior deeds, which recited a total area in excess of 40,000 square feet and a frontage of 200 feet, further assuring them of the size and buildable character of the parcel. (T.p.59)

Incident to the purchase, and in preparation for settlement, a survey was performed which revealed that the deed description for 2A Waugh Avenue contained an error in calculation. In fact, the parcel contained 14,505 square feet, approximately

The property lies within the National Register of Historic Districts and the Baltimore County District. (T.p.72)

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one-third of an acre, rather than the .445 acres recited in the deed description. For reasons cited in testimony, the Appellants felt compelled to consummate the transaction. (T.p.52)

After taking title, the Appellants investigated whether a building permit could be obtained for 2A Waugh Avenue, and were advised that the only relief available which would afford them the right to build on 2A Waugh Avenue was to file a petition before the Zoning Commissioner of Baltimore County for variances of the standards in the Baltimore County Zoning Regulations pertaining to undersized lots. B.C.Z.R. § 1B02.3.C.1. (Attachment III).

Subsequently, the subject petition was filed before the Zoning Commissioner of Baltimore County, seeking affirmation of the validity of the lot and variances for a minimum net lot area of 14,505 in lieu of the required 20,000 square feet, of a minimum lot width of 75 in lieu of 100 square feet, and side yard provisions of the regulations, all as set forth in B.C.Z.R. §1B02.3.C.1. The Zoning commissioner found that a hardship existed, but denied the requested relief. (Order of the Zoning Commissioner, November 14, 1991) A timely appeal was noted to the Board of Appeals of Baltimore County, which found the lot to be valid and that the requisite hardship exists, but denied the variances. (Opinion, June 12, 1992) The denial renders the lot at 2A Waugh Avenue without any reasonable economic use.

Appellants noted this appeal of the denial of the variances.

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ISSUES
I. WHETHER THE DECISION OF THE BOARD OF APPEALS IMPERMISSIBLY DEPRIVES APPELLANTS OF ANY ECONOMIC USE OF THE PROPERTY?

The Baltimore County Zoning Regulations provide that one must show practical difficulty or unreasonable hardship to justify the grant of an area variance. B.C.Z.R. §307 (Attachment IV) Under Maryland case law, an applicant need show that compliance with the strict letter of the regulations governing area, setbacks, and frontage would unreasonably prevent the owner from using the property for a permitted purpose. Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974); McLean v. Soley, 270 Md. 208, 310 A.2d 783 (1973).

The Opinion of Board of Appeals, like that of the Zoning Commissioner, held that Appellants would experience the requisite hardship if the area requirements of the B.C.Z.R. were strictly applied and would prevent the construction of a residence. Opinion, p.6. However, the Board denied the variance based on a belief that the relief, if granted, would have a detriment greater than "no injury to the public health, safety and general welfare".

Appellants' purpose - to improve the lot with a residential dwelling - is indisputably a permitted one. (T.p.24). Appellants concede that the parcel can be utilized by the grant of

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only the variances from the minimum lot area and minimum lot width requirements of the B.C.Z.R.'

The County's own reviewing agencies had found no adverse effects if the petitioned variances were granted. (Zoning Advisory Committee Comments; and T.p.25). Even the testimony of Protestant John Childs described the traffic that would be generated by one additional house as being a drop in the bucket, albeit, another drop in the bucket. (T.p.108) No expert testimony was presented to support the allegations of harm to the public.

The County's Historian John McGrain, testified that relief sought could be granted within the limits of the application in a manner consistent with other properties in the district. (T.p.75) Appellants' engineering consultant, Vince Moskunus, testified that the relief sought could be granted in such fashion that the spirit of the ordinance would be observed and without detriment to public safety and welfare, (T.p.26). He cited comments generated by the Zoning Advisory Committee (Attachment V), a committee which consists of the County agencies responsible for reviewing zoning plans.

Application of a regulation in a manner which deprives an owner of a permitted use, as here, has been deemed an impermissible taking. Maryland Courts have consistently held that where

Appellants requested side yard variances to be able to create a building envelope that could accommodate either a substantial home or a smaller one.

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appellants property cannot be put to any reasonable use, the case is not merely one of hardship, but of taking in a constitutional sense. Frankel v. City of Baltimore, 223 Md. 97, 162 A.2d 447 (1960).

Unlike those cases where variance applications intensifying use have been denied because a permitted use would exist without the variance, Appellants do not seek an intensification of use beyond that permitted. Nor do Appellants contend that denial of the variances would result in a financial loss or diminished value.

The Board bases its decision on its belief that the lot is "too small". In the case of Montgomery County v. Kacur, 253 Md. 220, 252 A.2d 833 (1969), the Court of Appeals held that even though the property for which a special exception was sought was not suitable for highly priced residential homes common in the area, there was no basis to support a conclusion that such a property was totally unsuitable for residential use; the use as a residence, albeit smaller than its neighbors, was found to be a reasonable economic use. That such a use could be made of the property was the very linchpin on which the Court defeated a claim of a taking. Here, the decision of the Board of Appeals excludes even the least intense use permitted -- a residence on a lot comparable to numerous others in the district. Nowhere is it written in the B.C.Z.R. only "substantial houses on large lots" are permitted.

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Protestants attach great significance to the fact that Appellants obtained the lot with knowledge of its zoning classification and that this fact should preclude any claim of hardship. (T.p.114-115) The fact of such knowledge has no legal significance. The Court of Appeals has found it unnecessary to limit one seeking a variance based on an alleged hardship because the applicant purchased the property with full knowledge of the zoning restriction of which he sought relief. Frankel v. City of Baltimore, supra, 223 Md. 97, 162 A.2d 447, 450; McLean v. Soley, supra, 270 Md. 208, 310 A.2d 783.

Maryland zoning cases make it clear that a if a property owner is unable, permanently to use his property for any of the permitted purposes and is therefore deprived of all beneficial use thereof, and has been refused a variation by an administrative board in the exercise of a discretion which the zoning ordinance has conferred upon it, he may successfully attack the validity of that ordinance as a taking. Frankel v. City of Baltimore, supra, 223 Md. 97, 162 A.2d 447, 451.

To sustain the decision of an administrative agency, however, a Court must be able to conclude that a rational basis supports that decision. The "rational basis" standard of review has been upheld repeatedly in the review of decisions of zoning boards and other administrative bodies. Mayor and City Council of Ocean City v. Burnell-Jarvis, Ltd., 86 Md. App. 390, 586 A.2d 816 (1991); Supervisor of Assessments of Calvert County v. St. Leonard

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Shores Joint Venture, 61 Md. App. 204, 486 A.2d 206; certiorari granted 303 Md. 115, 492 A.2d 616; affirmed 307 Md. 441, 514 A.2d 1215 (1985).

This standard must be reexamined in light of the recent United States Supreme Court case of Mollan v. California Coastal Commission, 483 U.S. 825, 107 S. Ct. 3141 (1987). Mollan holds government may apply a regulation to a property in a manner that would deny the proposed use of the property altogether without the denial being constitutionally impermissible. To uphold such a deprivation of property requires an analysis of the public purpose to be served by the regulation. That public purpose must be one that substantially advances a legitimate state interest, rather than one justified on any rational basis (the prevailing standard in Maryland). Under Mollan, there must be a showing that the adverse effect of the proposed use and its severity are sufficient to warrant the prohibition of that use.

The allegation of harm focuses on whether the construction of one house will intolerably exacerbate pre-existing traffic conditions. The Bureau of Traffic Engineering of Baltimore County, experts whose duty is to protect public traffic safety, did not find any harm to justify denial of the use. The additional traffic generated by one house can only be viewed as de minimis when weighed against the property loss that would otherwise result.

Further, the Opinion of the Board does not apply the requisite constitutional analysis, a weighing of the alleged harm

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against the resulting deprivation of property rights. The Board states "the variances... should be granted only if there will be no injury to the public health, safety and general welfare." (emphasis added) The correct analysis is whether the denial substantially advances a legitimate state interest. Even were that analysis applied, it could not sustain the denial of the requested width and area variances.

II. WHETHER THE COUNTY BOARD OF APPEALS COMMITTED A REVERSIBLE ERROR OF LAW BY RELYING ON PROVISIONS OF THE BALTIMORE COUNTY ZONING REGULATIONS WHICH DO NOT PERTAIN TO THE SUBJECT PETITION?

The Board's decision states:

"The subject Lot 2A of Waugh Avenue in an D.R. 2 zone, however is undersized and the Board feels that Petitioner does not meet the requirements of Section 304 of the BCZR, which permits the construction of a one-family dwelling on an undersized lot." Opinion, p.6.

Section 304 provides:

"A one-family dwelling may be erected on a lot having an area or width at the building line less than that required by height and area regulations, provided:

- That such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to adoption of these Regulations; and
- That all other requirements of the height and area regulations are complied [sic] with; and
- That the owner of the lot does not own sufficient adjoining land to conform substantially to the width and area requirements." (emphasis added) (Attachment VI)

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ORIGINAL

1

1 IN THE MATTER OF * BEFORE THE
2 FRED R. GOLDMAN, ET UX * COUNTY BOARD OF APPEALS
3 * OF BALTIMORE COUNTY
4 * Case No. 92-71-SPHA
5 * May 13, 1992

6 * * * * *

7 The above-entitled matter came on for hearing
8 before the County Board of Appeals of Baltimore County at
9 the Old Courthouse, Towson, Maryland 21204 at 10 o'clock
10 a.m., May 13, 1992.

11 * * * * *

12 BOARD MEMBERS:

13 WILLIAM T. HACKETT, Chairman
14 MICHAEL B. SAUER
15 HARRY E. BUCHHEISTER, JR.

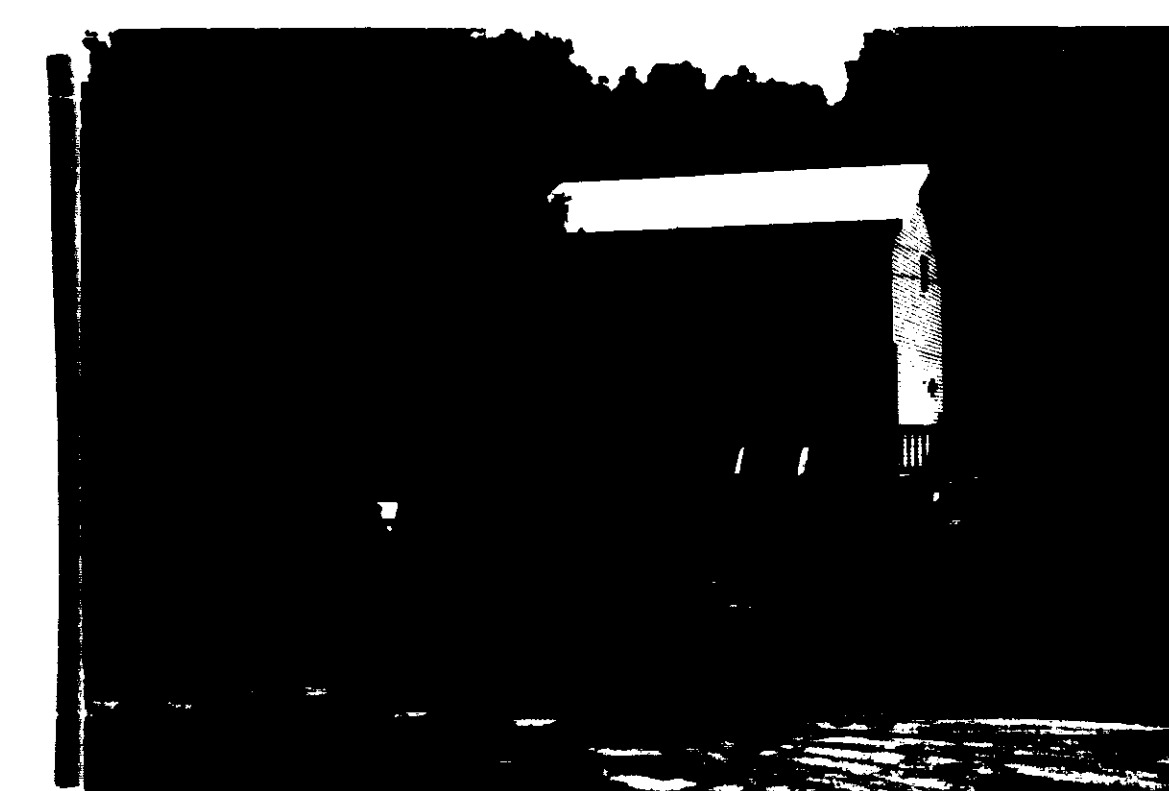
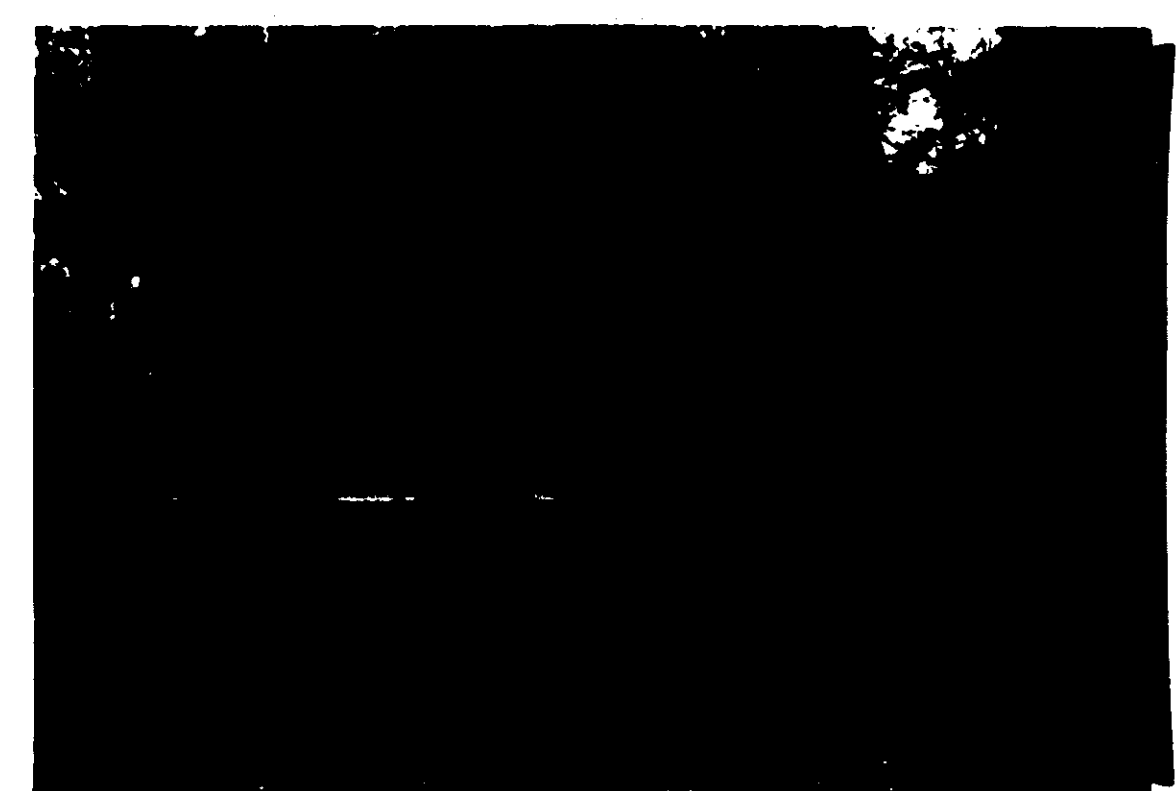
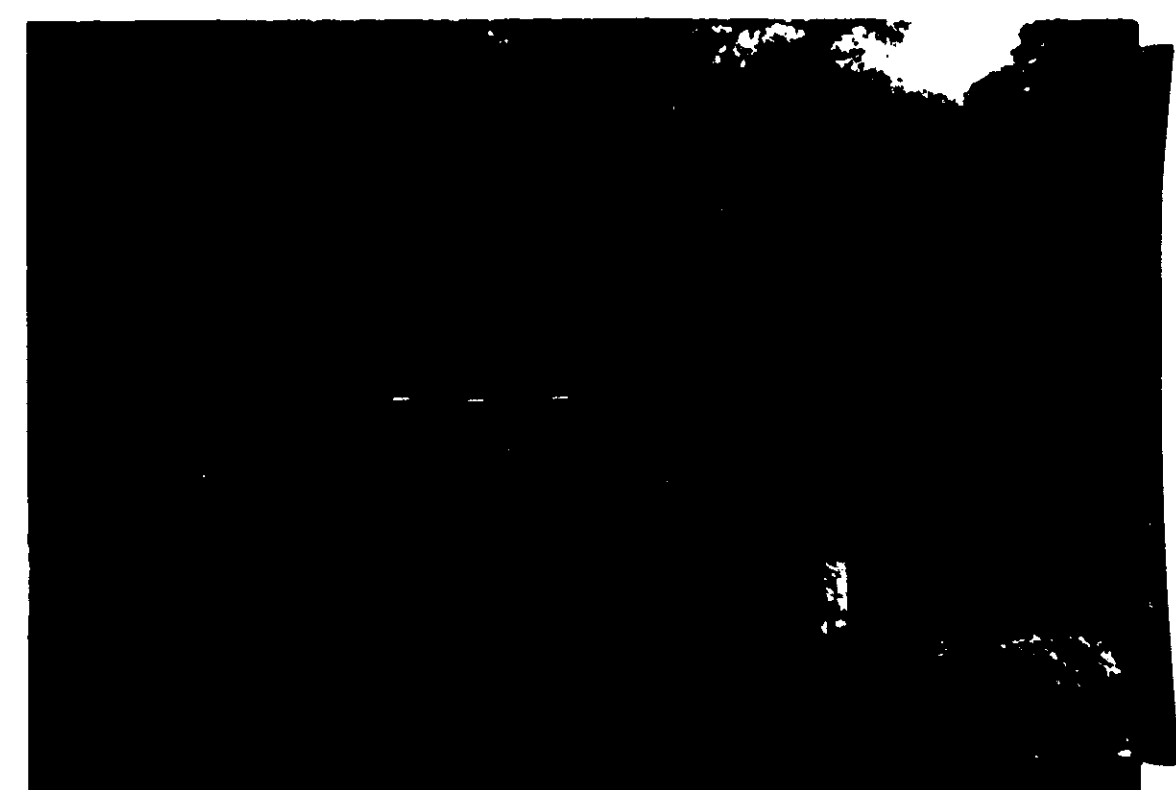
16 APPEARANCES:

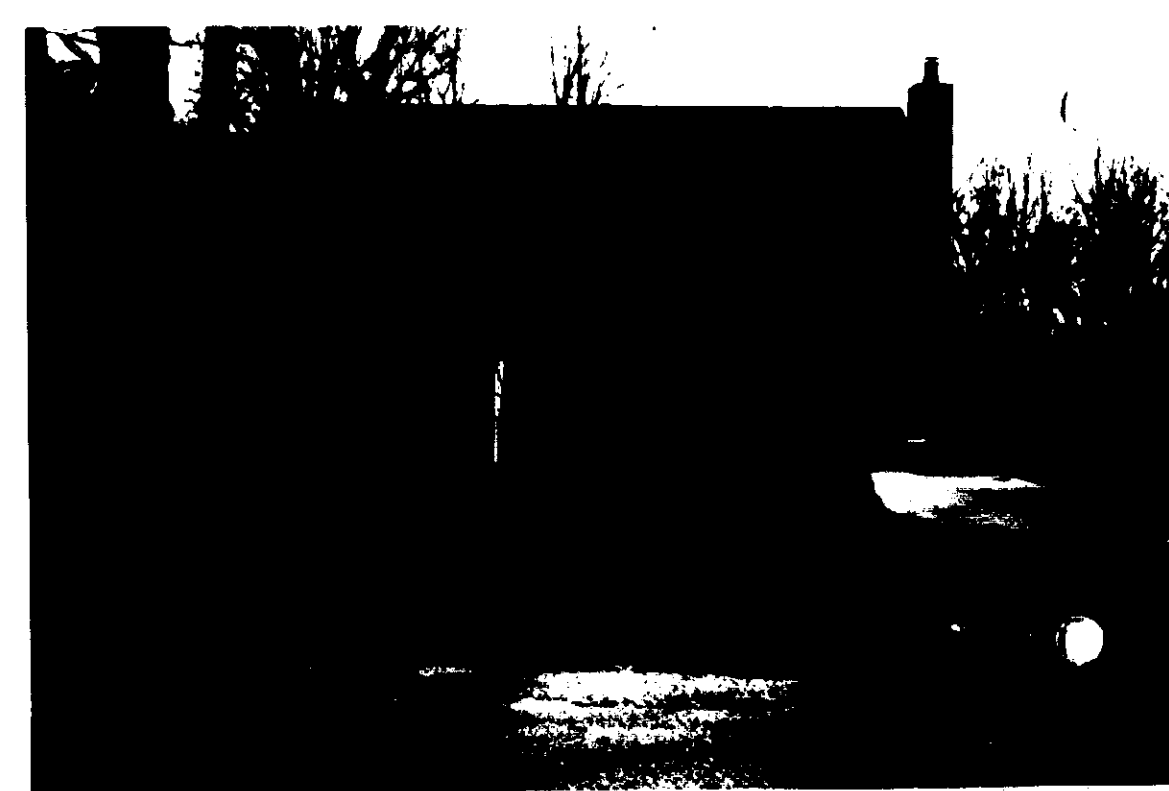
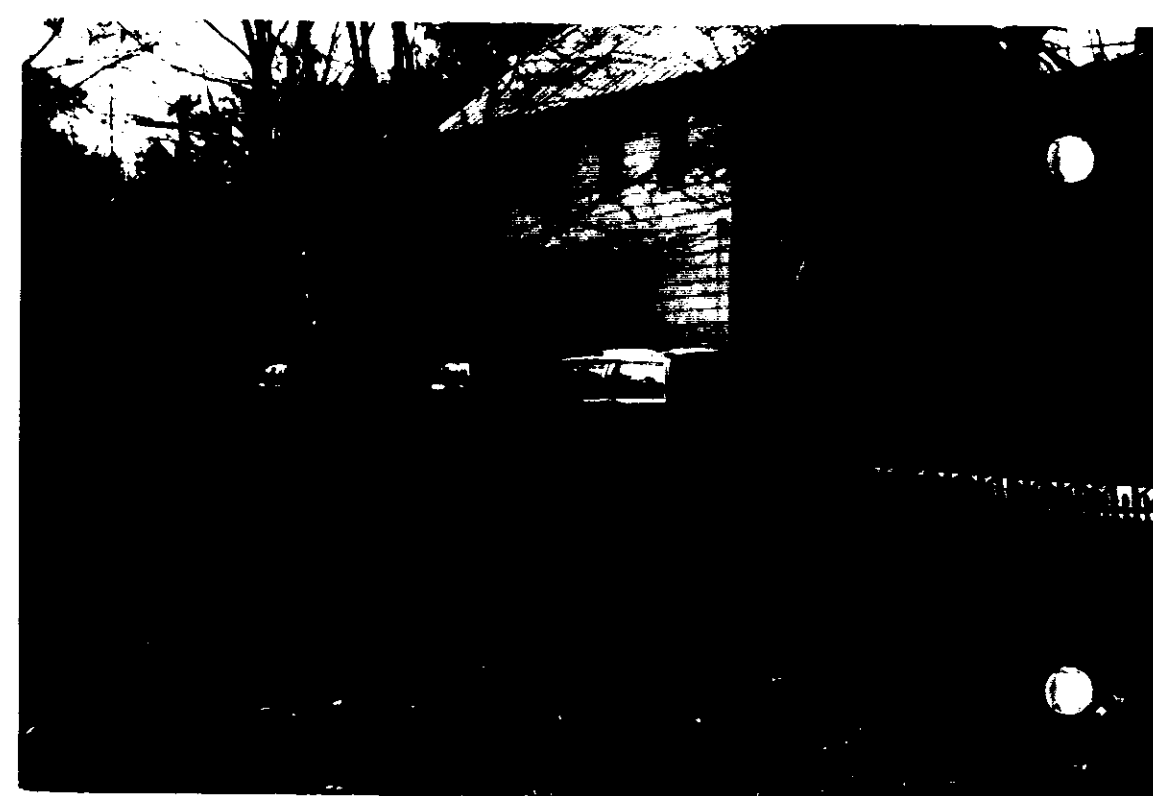
17 DEBORAH DOPKIN, Esquire
On behalf of Petitioners
18 GREGORY E. HAMMOND, Esquire
On behalf of Protestants

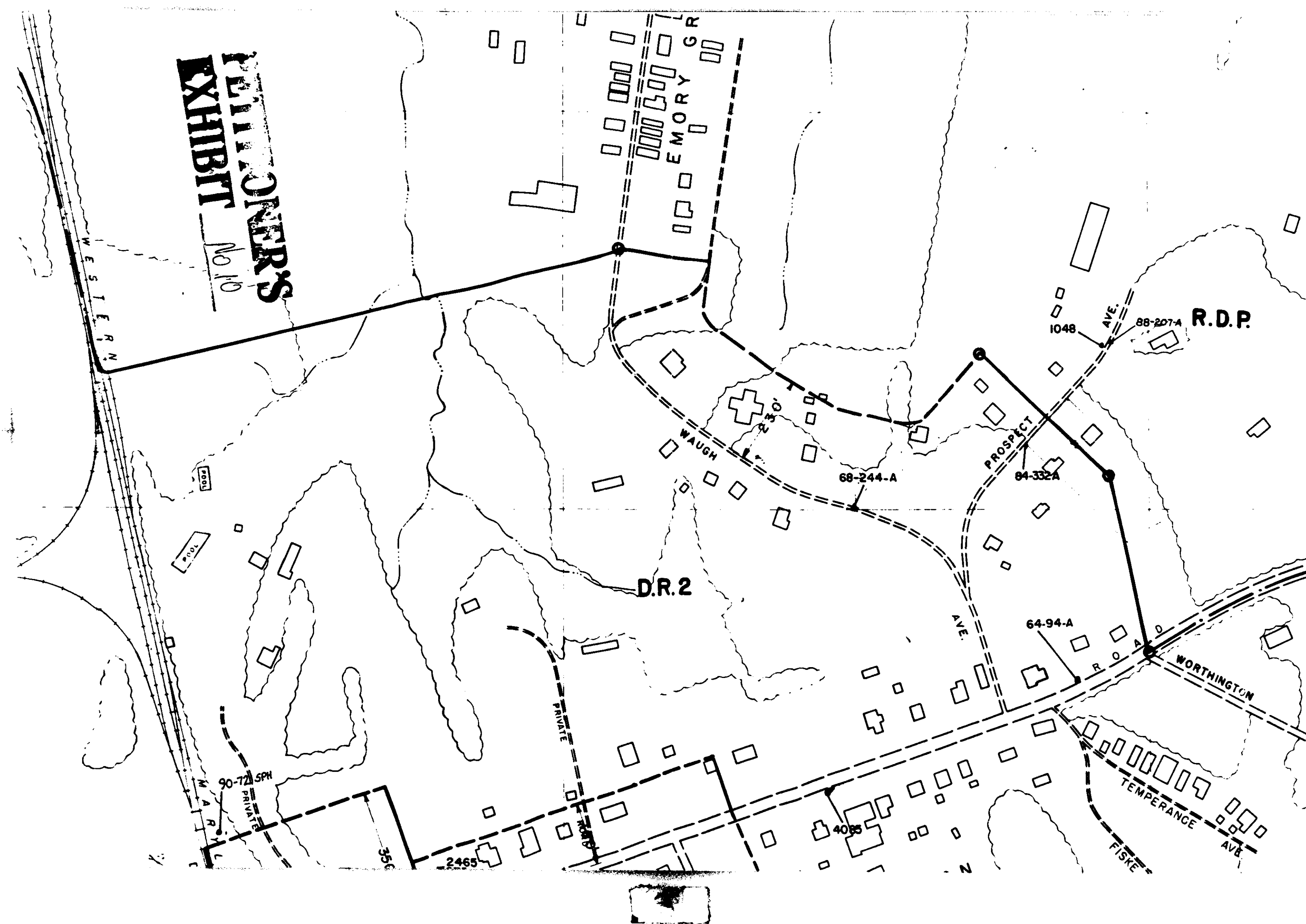
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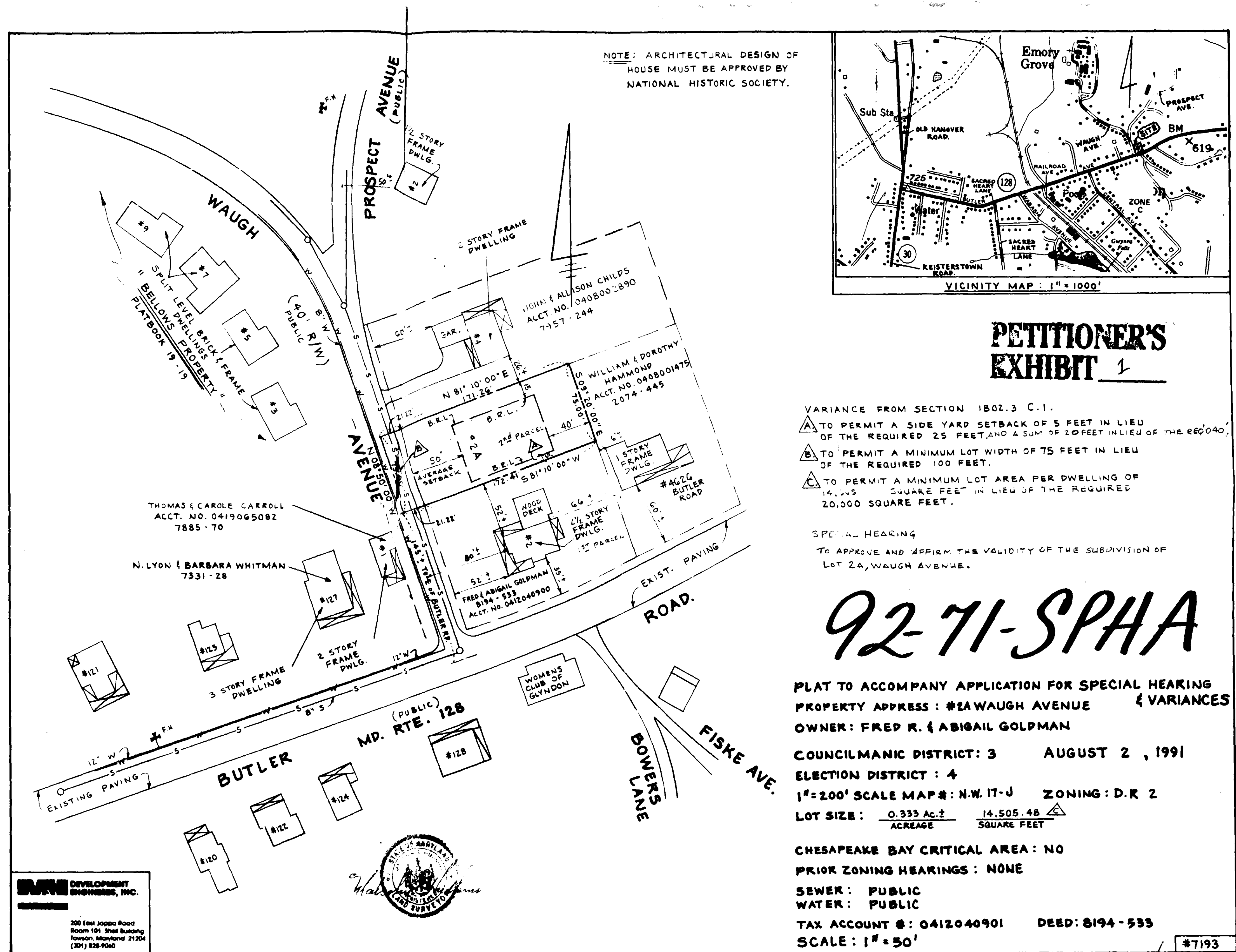
21 C.E. Peatt

BOARD OF APPEALS











BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

SCALE
1" = 200' ±
DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION
• GLYNDON
REISTERSTOWN
AREA

SHEET
N.W.
17-J

ITEM 67
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The reason that Appellants did not seek a variance pursuant to Section 304 is because the lot does not fall into the provisos set forth in subparagraphs a and b above. If Appellants had sought relief under this section, the Board properly should have denied such relief.

Appellants petition is pursuant to Section 1802.3.A. 4.: Special Regulations for certain Existing Developments or Subdivisions and for Small Lots or Tracts in D.R. Zones. (emphasis added)

In particular, subparagraph 4 provides:

"Any lot, or tract of lots in single ownership, which is not in an existing development or subdivision as described in Subparagraph 1 or 2 and which is less than one-half acre in area, regardless of the number of dwelling or density units that would be permitted at the maximum permitted density in the zone in which it is located.

Section 1802.3.C. then sets forth the Development Standards of such lots:

"1. Any dwelling hereafter constructed on a lot or tract described in Subparagraph A.3 or A.4 shall comply with the requirements of the following table:" (Attachment IV)

The table sets forth the width, frontage and yard requirements which pertain to such small lots.

It is significant to note that this provision was adopted in 1970, whereas Section 304 was adopted in 1955. In both 1955, and again in 1970, the County adopted major comprehensive revisions to regulations governing residential zones. The apparent legislative intent of each section was to preserve the building

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rights on undersized lots that would otherwise be rendered unusable upon adoption of new regulations.

Administrative law in Maryland provides that where an administrative agency applies the incorrect legal standard or its decision is based on an erroneous conclusion of law, the presumption of correctness of the administrative decision does not apply, and the reviewing court may substitute its judgment for that of the agency. Ocean City v. Purnell-Jarvis, Ltd., 86 Md. App. 390, 586 A.2d 816 (1991); Caucus Distributors, Inc. v. Maryland Securities Commissioner, 320 Md. 313, 577 A.2d 783 (1990); People's Counsel for Baltimore County v. Maryland Marine Manufacturing Co., Inc., 316 Md. 491, 560 A.2d 32 (1989).

Where the Board of Appeals reached an erroneous conclusion of law and applied the incorrect standard of review, a reviewing court is not constrained in reversing the administrative decision.

CONCLUSION

On the basis of the foregoing arguments and authority noted therein, Appellants contend that the decision of the County Board of Appeals of Baltimore County denying the requested variances is not supported by the facts presented before it nor the result of a well-reasoned correct application of the law and regulations.

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WHEREFORE, the Appellants, Fred and Abigail Goldman, respectfully request that the Order of the Board of Appeals denying the variances of width and minimum lot size be reversed.

Respectfully submitted,

Deborah C. Dopkin
Deborah C. Dopkin
Rosolio, Silverman and Kotz, P.A.
Suite 220, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
(410) 339-7100

MEMORANDUM OF POINTS AND AUTHORITIES

1. Baltimore County Zoning Regulations, 1963, as amended
2. Baltimore County Zoning Regulations, 1987, as amended
3. Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974).
4. Frankel v. City of Baltimore, 223 Md. 97, 162 A.2d 447 (1960).
5. Mavor and City Council of Ocean City v. Purnell-Jarvis, Ltd., 86 Md. App. 390, 586 A.2d 816 (1991).
6. McLean v. Soley, 270 Md. 208, 310 A.2d 783 (1973).
7. Montgomery County v. Kacur, 253 Md. 220, 252 A.2d 833 (1969).
8. Nollan v. California Coastal Commission, 483 U.S. 825, 107 S. Ct. 3141 (1987).
9. Ocean City v. Purnell-Jarvis, Ltd., 86 Md. App. 390, 586 A.2d 816 (1991).
10. Caucus Distributors, Inc. v. Maryland Securities Commissioner, 320 Md. 313, 577 A.2d 783 (1990).
11. People's Counsel for Baltimore County v. Maryland Marine Manufacturing Co., Inc., 316 Md. 491, 560 A.2d 32 (1989).

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12. Supervisor of Assessments of Calvert County v. St. Leonard Shores Joint Venture, 61 Md. App. 204, 486 A.2d 206; certiorari granted 303 Md. 115, 492 A.2d 616; affirmed 307 Md. 441, 514 A.2d 1215 (1985).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2 day of September, 1992, a copy of the foregoing Memorandum was served upon the County Board of Appeals of Baltimore County, Courthouse, Towson, Maryland 21204 and to Gregory E. Hammond, Esquire, Turnbull, Mix & Farmer, 706 Washington Avenue, Maryland 21204, attorneys for Mrs. Dorothy Hammond, and to Mr. and Mrs. John C. Childs, Jr., 4 Waugh Avenue, Glyndon, Maryland 21071.

Deborah C. Dopkin
Deborah C. Dopkin

DCDZONEN/AAPAL.MEM

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IN THE MATTER OF THE APPLICATION * IN THE
OF FRED R. GOLDMAN, ET UX FOR A *
SPECIAL HEARING AND ZONING * CIRCUIT COURT
VARIANCES ON PROPERTY LOCATED ON *
THE EAST SIDE OF WAUGH AVENUE, * FOR
145' NORTH OF BUTLER ROAD (2A *
WAUGH AVENUE) * BALTIMORE COUNTY
3RD ELECTION DISTRICT * CG Doc. No. 27
4TH COUNCILMANIC DISTRICT *
FRED R. GOLDMAN, ET UX, * Folio No. 129
PLAINTIFFS * File No. 92-CV-6409
ZONING CASE NO. 92-71-SPHA * * * * *

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE
BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, Michael B. Sauer and Harry E. Buchheister, Jr., constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Office of the Zoning Commissioner and the Board of Appeals of Baltimore County:

No. 92-71-SPHA Petition for Special Hearing to approve and affirm the validity of the subdivision of Lot 2A, Waugh Avenue, Glyndon, Maryland filed by Deborah C. Dopkin on behalf of Mr. and Mrs. Fred Goldman. Petition for Variances also filed for setbacks/lot width and lot area.

September 12, 1991 Publication in newspapers.

September 23 Certificate of Postings of property.

October 1 Comments of Baltimore County Zoning Plans Advisory Committee.

October 15 Hearing held on Petition by the Zoning Commissioner.

Fred R. Goldman, et ux, File No. 92-CV-6409
Case No. 92-71-SPHA

November 14, 1991 Order of the Zoning Commissioner DENYING Petitions.

November 25 Notice of Appeal received from Deborah C. Dopkin, Esquire on behalf of Petitioners.

May 13, 1992 Hearing before the Board of Appeals.

June 12 Opinion and Order of the Board GRANTING Petition for Special Hearing and DENYING Petition for Variances.

July 8 Order for Appeal filed in the Circuit Court for Baltimore County by Deborah C. Dopkin, Esquire on behalf of Petitioners.

July 17 Petition to accompany appeal also filed in the Circuit Court for Baltimore County by Ms. Dopkin.

July 10 Certificate of Notice sent to interested parties.

August 4 Transcript of testimony filed.

Petitioner's Exhibit No. 1 -Map of subject property in Glyndon

Protestants' Exhibit No. 1 -Contract of Sale (IN BOARD'S CLOSET) 2 -Display of photographs 3 -Deed Trautman and Cooper to Livingston 4-Deed Gerold Livingston to Ethel Livingston 5-Deed Ethel Livingston to Goldman 6-Resolution by Glyndon Comm. Assoc. 7-Letter from Glyndon Assoc. to Board of Appeals 8-Affidavits Hist. Glyndon Inc.

August 4 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board. However, all tangible material or evidence of an unwieldy or bulky

2.

Fred R. Goldman, et ux, File No. 92-CV-6409
Case No. 92-71-SPHA

nature will be retained in the Board of Appeals' office and upon request of the parties or the Court will be transmitted to the Court by whomsoever institutes the request.

Respectfully submitted,
Linda Lee M. Kuzmaul
Linda Lee M. Kuzmaul, Legal Secretary,
County Board of Appeals, Room 49
Old Courthouse, Basement
400 Washington Avenue
Towson, Maryland 21204 (410) 887-3180

cc: Deborah C. Dopkin, Esquire
Mr. and Mrs. Fred R. Goldman
Gregory E. Hammond, Esquire
Ms. Dorothy Hammond, et al

3.

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

IN THE MATTER OF * BEFORE THE
THE APPLICATION OF *
FRED R. GOLDMAN, ET UX * COUNTY BOARD OF APPEALS
FOR A SPECIAL HEARING AND *
VARIANCE ON PROPERTY LOCATED * OF
ON THE EAST SIDE WAUGH AVENUE * BALTIMORE COUNTY
145' NORTH OF BUTLER ROAD * Case No. 92-71-SPHA
3RD ELECTION DISTRICT *
4TH COUNCILMANIC DISTRICT *

PETITION ON APPEAL

Fred R. Goldman, et ux, by Deborah C. Dopkin and Rosolio & Silverman, files this Petition on Appeal pursuant to Md. Rule B.2.e., and for reasons hereto states as follows:

1. That the action appealed from is an Order of the County Board of Appeals of Baltimore County in the above entitled matter dated June 12, 1992.

2. That the County Board of Appeals held as follows:

"... ORDERED that a Variance from Section 1802.3.C.1 of the BCZR to permit a side yard setback of 5 feet in lieu of the required 25 feet, and a sum of the side yards of 20 feet in lieu of the required 40 feet; a minimum lot width of 75 feet in lieu of the required 100 feet; and a minimum lot area per dwelling unit of 14,505 sq. ft. in lieu of the required 20,000 sq. ft., for a proposed dwelling on Lot 2A, in accordance with Petitioner's Exhibit No. 1, be and is hereby DENIED."

3. That the error committed by the Board relates to the Board's conclusions of law as stated Paragraph 2 above.

4. That the Board has erred in its application of the law in that it denies the herein Petitioner any economic use of Lot 2A after finding that the lot exists as a valid lot.

ROSOLO AND SILVERMAN, P.A.

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: October 3, 1991

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: August 27, 1991

This office has no comments for item numbers 53, 64, 65, 66, 67, 68, 69, 70, 71, 74, 75, 76, 77, 78, 79 and 80.

Rahee J. Famili
Rahee J. Famili
Traffic Engineer II

RJF/lvd

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 30, 1991
Zoning Administration and
Development Management

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Fred R. Goldman, Item No. 67

In reference to the Petitioner's request, staff offers the following comments:

The Office of Planning and Zoning has several concerns regarding this project, e.g., visual integrity and the ability to handle stormwater run-off. Should the applicant's request be granted, staff recommends that architectural rendering of the proposed house be approved by the deputy director prior to the issuance of any building permits.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/rdn

ITEM67/TXTROZ

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

December 2, 1991

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Hearing and Zoning Variance
E/S Waugh Avenue, 145' N of Butler Road
(2A Waugh Avenue)
3rd Election District, 4th Councilmanic District
FRED R. GOLDMAN, ET UX - Petitioner
Case No. 92-71-SPHA

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on November 25, 1991 by Deborah C. Dopkin, Attorney on behalf of the petitioner. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

[Signature]
Zoning Commissioner

LES:cer

Enclosures

cc: Fred and Abigail Goldman - 2 Waugh Avenue, Glyndon, MD
Deborah Dopkin, Esquire - 502 Washington Avenue, Towson, MD 21204
Vincent J. Moskunus - 200 E. Joppa Road, Towson, MD 21204
William E. Hammond - 4626 Butler Road, Glyndon, MD 21071
John C. Childs, Jr. - 4 Waugh Avenue, Glyndon, MD 21071
John W. McGrain 401 Bosley Avenue, Towson, MD 21204
People's Counsel -Rm. 304, County Office Bldg., Towson, MD 21204

410-887-3353
DEC 12 11 05 AM '91

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

December 12, 1991

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Hearing and Zoning Variance
E/S Waugh Avenue, 145' N of Butler Road
(2A Waugh Avenue)
3rd Election District, 4th Councilmanic District
FRED R. GOLDMAN, ET UX - Petitioner
Case No. 92-71-SPHA

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on November 25, 1991 by Deborah C. Dopkin, Attorney on behalf of the petitioner. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

[Signature]
Zoning Commissioner

LES:cer

Enclosures

cc: Fred and Abigail Goldman - 2 Waugh Avenue, Glyndon, MD
Deborah Dopkin, Esquire - 502 Washington Avenue, Towson, MD 21204
Vincent J. Moskunus - 200 E. Joppa Road, Towson, MD 21204
William E. Hammond - 4626 Butler Road, Glyndon, MD 21071
John C. Childs, Jr. - 4 Waugh Avenue, Glyndon, MD 21071
John W. McGrain 401 Bosley Avenue, Towson, MD 21204
People's Counsel -Rm. 304, County Office Bldg., Towson, MD 21204

5. That the Board further erred in its application of the law by denying the requested variance based on herein Petitioner's failure to meet the requirements of Section 304 of the Baltimore County Zoning Regulations. That the Board of Appeals applied Section 304 of the Baltimore County Zoning Regulations, which does not apply to the instant case. Further, that relief was neither sought nor argued at the appeal hearing pursuant thereto.

6. That the error committed by the Board will be more fully set forth in a Memorandum to be filed by the Appellant herein in accordance with Maryland Rule B-12.

WHEREFORE, your Petitioner prays for the following relief:

- That an Order be entered reversing the decision of the County Board of Appeals of Baltimore County, as set forth in Paragraph 1 above;
- That an Order be entered granting the variances requested; and
- Such other and further relief as the nature of this cause may require.

Deborah C. Dopkin
Deborah C. Dopkin
ROSOLIO AND SILVERMAN, P.A.
Suite 220, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
(410) 339-7100
Attorneys for Applicant/Appellant

-2-

MICROFILMED

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of July, 1992, a copy of the foregoing Petition on Appeal was served upon the County Board of Appeals of Baltimore County, Courthouse, Towson, Maryland 21204 and to Gregory E. Hammond, Esquire, Turnbull, Mix & Farmer, 706 Washington Avenue, Maryland 21204, attorneys for Mrs. Dorothy Hammond, and to Mr. and Mrs. John C. Childs, Jr., 4 Waugh Avenue, Glyndon, Maryland 21071.

Deborah C. Dopkin
Deborah C. Dopkin

-3-

IN THE MATTER OF THE APPLICATION *
OF FRED R. GOLDMAN, ET UX FOR A *
SPECIAL HEARING AND ZONING *
VARIANCES ON PROPERTY LOCATED ON *
THE EAST SIDE OF WAUGH AVENUE, *
145' NORTH OF BUTLER ROAD (2A *
WAUGH AVENUE) *
3RD ELECTION DISTRICT *
4TH COUNCILMANIC DISTRICT *
FRED R. GOLDMAN, ET UX, *
PLAINTIFFS *
ZONING CASE NO. 92-71-SPHA *
* * * * *

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Michael B. Sauer and Harry E. Buchheister, Jr., constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Deborah C. Dopkin, Esquire, Rosolio and Silverman, P.A., Suite 220, Nottingham Centre, 502 Washington Avenue, Towson, Maryland 21204, Counsel for Plaintiff, Mr. and Mrs. Fred R. Goldman, 2 Waugh Avenue, Glyndon, Maryland 21071, Plaintiffs; Gregory E. Hammond, Esquire, Turnbull, Mix & Farmer, 706 Washington Avenue, Towson, Maryland 21204, Counsel for Protestants, Mrs. Dorothy Hammond, et al, 4626 Butler Road, Glyndon, Maryland 21071, Protestants; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 49, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

CERTIFICATE OF NOTICE

MICROFILMED

Fred R. Goldman, et ux, File No. 92-CV-6409
Case No. 92-71-SPHA

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul, Legal Secretary,
County Board of Appeals, Room 49, Old
Courthouse, 400 Washington Avenue,
Towson, Maryland 21204 (410) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Deborah C. Dopkin, Esquire, Rosolio and Silverman, P.A., Suite 220, Nottingham Centre, 502 Washington Avenue, Towson, Maryland 21204, Counsel for Plaintiff, Mr. and Mrs. Fred R. Goldman, 2 Waugh Avenue, Glyndon, Maryland 21071, Plaintiffs; Gregory E. Hammond, Esquire, Turnbull, Mix & Farmer, 706 Washington Avenue, Towson, Maryland 21204, Counsel for Protestants, Mrs. Dorothy Hammond, et al, 4626 Butler Road, Glyndon, Maryland 21071, Protestants; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 49, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 on this 10th day of July, 1992.

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul, Legal Secretary,
County Board of Appeals, Room 49, Old
Courthouse, 400 Washington Avenue,
Towson, Maryland 21204 (410) 887-3180

Deborah C. Dopkin

hwgoldman.ord

-2-

MICROFILMED



County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

July 10, 1992

Deborah Dopkin, Esquire
Rosolio & Silverman, P.A.
Suite 220
502 Washington Avenue
Towson, Maryland 21204

Re: Case No. 92-71-SPHA (Fred R. Goldman, et ux)

Dear Ms. Dopkin:

In accordance with Rule B-7(a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the appeal which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you file in Court, in accordance with Rule B-7(a).

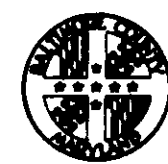
Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Mr. and Mrs. Fred R. Goldman



County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

July 10, 1992

Gregory E. Hammond, Esquire
Turnbull, Mix & Farmer
706 Washington Avenue
Towson, Maryland 21204

Re: Case No. 92-71-SPHA (Fred R. Goldman, et ux)

Dear Mr. Hammond:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Ms. Dorothy Hammond
Mr. Vincent J. Moskunas
Mr. John C. Childs, Jr.
John W. McGrain
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Pocket Clerk - Zoning
Arnold Jablon, Director of
Zoning Administration

MICROFILMED

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

IN THE MATTER OF *
THE APPLICATION OF *
FRED R. GOLDMAN, ET UX, *
FOR A SPECIAL HEARING AND *
VARIANCE ON PROPERTY LOCATED *
ON THE EAST SIDE WAUGH AVENUE *
145' NORTH OF BUTLER ROAD *
(2A WAUGH AVENUE) *
3RD ELECTION DISTRICT *
4TH COUNCILMANIC DISTRICT *
* * * * *

ORDER FOR APPEAL

Mr. Clerk:

Please note an appeal of the final Opinion and Order by the County Board of Appeals of Baltimore County, dated June 12, 1992, in the above-captioned matter. The appeal is on behalf of the Petitioner/Appellant, Fred R. Goldman, et ux., 2 Waugh Avenue, Glyndon, Maryland 21071.

Deborah C. Dopkin
Deborah C. Dopkin
ROSOLIO AND SILVERMAN, P.A.
Suite 220, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
(410) 339-7100
Attorneys for Appellant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 17th day of July, 1992, a copy of the foregoing Order for Appeal was mailed to the County

ROSOLIO AND SILVERMAN, P.A.

IN THE MATTER OF THE
THE APPLICATION OF
FRED R. GOLDMAN, ET UX
FOR A SPECIAL HEARING AND
VARIANCE ON PROPERTY LOCATED
ON THE EAST SIDE WAUGH AVENUE
145' NORTH OF BUTLER ROAD
(2A WAUGH AVENUE)
3RD ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 92-71-SPHA

TESTIMONY

This case comes before this Board as an appeal from the decision of the Zoning Commissioner dated November 14, 1991, denying Petitioner's request for a special hearing to approve and affirm validity of the subdivision of a parcel adjacent to his residential property in the Glyndon community of the Fourth Councilmanic District. In addition, Petitioner requested several variances from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (BCZR). This case was heard this day in its entirety.

Testimony in this matter initially centered on a tract of 2.1 acres that was subdivided at different dates over several decades in which three additional parcels were created and subsequently conveyed by deed. Evidence presented showed that one of three parcels is owned by the Petitioner, Fred Goldman; one by Mrs. William E. Hammond; and the other by John C. Childs, neighbor to the Petitioner. Three of the parcels satisfied the Baltimore County Code relative to lot size, upon which dwellings were built. The remaining fourth lot, 2A Waugh Avenue, acquired by Mr. Goldman, is the subject of this case.

Vincent Moskunas, officer of the engineering firm engaged by Petitioner, reviewed the original 2.1 acre property and the history of the deeded ownerships. The subject lot was identified as 2A

Case No. 92-71-SPHA Fred R. Goldman, et ux 2

Waugh Avenue by the County to designate the vacant parcel, which was first conveyed by deed in 1966. A survey showed the lot to be 14,500 +/- sq. ft. Mr. Moskunas affirmed the zoning of the parcel as D.R. 2 and suitable for a single family dwelling, in a community where houses exist on smaller lots. If the lot is not buildable, he testified, there would be no other use for the property.

In response to Counsel, Mr. Moskunas agreed that the widening of Waugh Avenue would reduce the size of the lot to 13,000 +/- sq. ft., well short of the regulation requirement of 20,000 sq. ft. for a property under Section 1802.3.C.1 (BCZR).

Petitioner, Fred R. Goldman, testified to the considerations that led him to purchase the property (2A Waugh Avenue) and his understandings that led him to plan for a dwelling on the open lot, for which he has been separately taxed. Petitioner reviewed his efforts to inform neighbors of his plan for the property, and only learned of potential problems several days prior to settlement. Opposition by Protestants that Lot 2A was not a separate parcel was countered by evidence of deeds with two lot descriptions, two tax bills and a utilities connection to the property.

Mr. Goldman further noted the existence of houses on lots with 70 to 75-foot frontages and a diversity of homes unlike his present Victorian era residence. If denied his request, he would be faced with hardship and a practical difficulty. He asserted that the variance was in harmony with the law and that his plan would benefit the neighborhood.

John McGrain, historic site planner for Baltimore County Office of Planning & Zoning, testified that the property was

Case No. 92-71-SPHA Fred R. Goldman, et ux 3

located in a National Historic District and Baltimore County Historic District, and, as such, must be reviewed by the Landmarks Committee for compatibility and design. In view of the diversity of lot sizes and house types, Mr. McGrain stated that the size of subject Lot 2A is not out of proportion with Glyndon and could support a house of traditional architecture. In response to Counsel for the Protestants, Mr. McGrain clarified that compliance with his office was not voluntary, and that he has authority to have permits to build withheld by the County.

Mrs. Dorothy Hammond, longtime resident of Glyndon and family member of the original owners of the 2.1 acre site, testified that the subject lot was never intended to be a buildable parcel, but part of a large house property.

John Childs, testifying as the adjacent neighbor, told of his investigation of the lot sale and was told by the realtor that the property would require variances for building. His objections were that any house on the parcel would be too small to satisfy the zoning regulations, and would decrease property values. Mr. Childs testified to several ideas and plans Petitioner revealed in conversations as to his uses for the subject parcel, a matter Mr. Childs viewed as real estate speculation.

Mr. David Porter, President of the Glyndon Community Association, and a resident of Waugh Avenue, reported the association's strong opposition to the proposal. He noted the small lot size and the need to keep the historic district atmosphere of the community. Mr. Porter testified that prior to the zoning hearing he informed Petitioner of community opposition,

Case No. 92-71-SPHA Fred R. Goldman, et ux 4

and personally considered Mr. Goldman's problem as a self-imposed hardship.

Ms. Ann Welch, representing the Glyndon Community Association, lives on a 3-acre federal historic property several lots removed from the site and spoke of serious traffic problems existing at Waugh Avenue and Butler Road. Throughout the hearing, witnesses described Waugh Avenue as a narrow road subject to future widening, and particularly difficult for entry from Butler Road. Ms. Welch's description of parked vehicles in front of Petitioner's house and across the road limits and delays entry, creating traffic hazards at the location. In addition to an added traffic problem at the location, Ms. Welch viewed the narrow lot as visually incongruent with the neighborhood.

OPINION

In consideration of Petitioner's request to approve and affirm validity of the subdivision of his property, testimony and exhibits entered in this hearing give evidence of a deed (Exhibit 3) showing two lots of specific dimensions set on a site, and an assessment and taxes for the separate lots. There is indication of surveying errors as to lot size. The Baltimore County Government obviously considered the subject site, 2A Waugh Avenue, as a separate taxable property for many years.

With regard to the testimony concerning the matter of whether there is one large lot or two separate lots, the Board is of the opinion that two separate lots were in fact created when the grantor under the deed dated 1966 describes two separate pieces of land. However, the testimony as well as review of the deed does

Case No. 92-71-SPHA Fred R. Goldman, et ux 5

not permit this Board to conclude that it was the intention of the grantor that the subject lot in question when created was intended to be a building lot. The testimony discloses that the square footage of the lot is 14,561 sq. ft. Under BCZR regulation Section 1802.3.C.1, it is required that a building lot have a minimum area of 20,000 sq. ft. Therefore, the lot is too small under the regulations to be permitted as a building site. It is clear to this Board that the property is being assessed as a building lot based upon the testimony that the assessed value of the property for tax purposes was \$86,000; however, this assessment is not the test for determining whether the property is a buildable lot. The Petitioner should seek an appropriate remedy from the State Department of Assessments and Taxation under its administrative review process concerning the assessment of real estate taxes.

The subject Lot 2A of Waugh Avenue in an D.R. 2 zone, however, is undersized and the Board feels that Petitioner does not meet the requirements of Section 304 of the BCZR, which permits the construction of a one-family dwelling on an undersized lot. The total square footage of the buildable surface is too limited for the footprint of the residence as planned by Petitioner. The requested side yard setbacks, lot width, and lot area minimum only emphasizes the limitations for construction on this property in an D.R. 2 zoned parcel, and in an historic district.

Mr. Goldman testified to a number of houses which were constructed on lots similar to the subject site and that his proposed house would be compatible with the neighborhood. However, the possibility of the widening of Waugh Avenue raises the

Case No. 92-71-SPHA Fred R. Goldman, et ux 6

condition of lot area being reduced from that requested in the variance, and Protestants' objection to an increase in traffic congestion at Waugh Avenue and Butler Road compounds the problem for residents of the neighborhood.

In order for a variance to be granted by this Board, the evidence presented must establish a practical difficulty or unreasonable hardship as defined in McLean v. Soley:

- 1) Whether compliance with the strict letter of the restrictions governing various variances would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
- 2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
- 3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured." McLean v. Soley, 270 Md. 216, 1973

It is apparent to the Board that Petitioner enjoys the ambiance of a large property. Strict compliance with the regulations (Section 1802.3.C.1) would prevent the use of a subdivided property (2A) for the construction of an additional residence by Petitioner, and a resulting hardship. However, the variances Petitioner requests should be granted only if there will be no "injury to the public health, safety and general welfare." In this instance, the site simply is not large enough to construct the proposed house in an area that features substantial houses on large lots. Construction on the undersized parcel would be incompatible with the neighborhood and detrimental to the health,

Case No. 92-71-SPHA Fred R. Goldman, et ux 7

general welfare of the community. For this reason, the Petition for Zoning Variance is denied.

ORDER

IT IS THEREFORE this 12th day of June, 1992 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing to approve and affirm the validity of the subdivision of the subject property is GRANTED; and it is further

ORDERED that a Variance from Section 1802.3.C.1 of the BCZR to permit a side yard setback of 5 feet in lieu of the required 25 feet, and a sum of the side yards of 20 feet in lieu of the required 40 feet; a minimum lot width of 75 feet in lieu of the required 100 feet; and a minimum lot area per dwelling unit of 14,505 sq. ft. in lieu of the required 20,000 sq. ft., for a proposed dwelling on Lot 2A, in accordance with Petitioner's Exhibit No. 1, be and is hereby DENIED..

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Michael B. Soley
Michael B. Soley

Harry E. Buchheister, Jr.
Harry E. Buchheister, Jr.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

June 12, 1992

Deborah Dopkin, Esquire
Suite 220
502 Washington Avenue
Towson, MD 21204

RE: Case No. 92-71-SPHA
Fred R. Goldman, et ux

Dear Ms. Dopkin:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Mr. & Mrs. Fred Goldman
Gregory E. Hammond, Esquire
Mrs. Dorothy Hammond
Mr. Vincent J. Moskunas
Mr. John C. Childs, Jr.
Mr. John W. McGrain
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of
Zoning Administration
Public Services

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND ZONING VARIANCE - E/S
Waugh Ave., 145' N of Butler Rd. * ZONING COMMISSIONER
(2A Waugh Avenue)
3rd Election District * OF BALTIMORE COUNTY
4th Councilmanic District * Case No. 92-71-SPHA
Fred R. Goldman, et ux
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to "approve and affirm the validity of the subdivision" of the subject property, and a variance from Section 1802.3.c.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit: 1) a side yard setback of 5 feet in lieu of the required 25 feet and a sum of the side yards of 20 feet in lieu of the required 40 feet; 2) a minimum lot width of 75 feet in lieu of the required 100 feet; and, 3) a minimum lot area per dwelling unit of 14,505 sq.ft. in lieu of the required 20,000 sq.ft.; for a proposed dwelling as more particularly described on Petitioner's Exhibit 1.

The Petitioners, Fred and Abigail Goldman, appeared, testified and were represented by Deborah Dopkin, Esquire. Also appearing on behalf of the Petitioners was Vincent J. Moskunas of Development Engineers, Inc. Numerous residents of the area appeared as Protestants in the matter. Appearing and testifying as their spokesman and on his own behalf was William E. Hammond. Mr. Hammond resides immediately adjacent to the subject property and it was his ancestors who at one time owned the entire parcel of which the subject property is a part. Also appearing in opposition to the relief requested was John C. Childs, an adjacent property owner. Appearing as an interested party in the matter was John W. McGrain, Baltimore County's unofficial landmark historian.

MICROFILMED

Testimony indicated that the subject property, identified as Lot 2A Waugh Avenue, consists of approximately 14,505.48 sq.ft., is zoned D.R. 2 and is presently unimproved. Petitioners are desirous of developing the property with a single family dwelling in accordance with Petitioner's Exhibit 1. Although the proposed construction generated much interest and opposition from the local community, the history of the subject property is undisputed.

Evidence presented indicated that this property was originally part of a 2.1 acre parcel acquired by ancestors of William E. Hammond by deed dated December 12, 1908. The first subdivision of the parcel occurred on or about February 16, 1952, at which time a lot of approximately 1.00 acre in size was conveyed to Mr. Hammond. The subdivision which created Mr. Hammond's lot is valid. Specifically, Mr. Hammond's lot satisfied the requirements of Section 44.42 of the 1948 Baltimore County Code relative to lot size. Mr. Hammond and his family continue to reside on this property, known as 4626 Butler Road. Thereafter, on January 30, 1961, a second lot was created from the original parcel. This property, known as 4 Waugh Avenue, is presently owned and occupied by the Protestant, John C. Childs. The subdivision which created this lot was likewise proper. Section 205.1 of the B.C.Z.R., in effect in 1961, required a minimum lot area of 20,000 sq.ft. The Childs' property is significantly larger. The third subdivision occurred on April 5, 1962, when a lot of approximately one-half acre in size was conveyed by the Hammond family to Catherine M. Troutman and Lynn L. Cooper, the predecessors in title to the Petitioners. As was the case with the Childs' lot, this lot is likewise sufficient in size to be in compliance with the then existing regulations. Additionally, this lot does not constitute the entire holdings now owned by the Goldmans; however,

it is the parcel on which their existing house is located and is known as 2 Waugh Avenue. The remaining lot, which is the subject of the instant matter and identified as 2A Waugh Avenue, was ultimately conveyed by the Hammond family to Ms. Troutman and Ms. Cooper by deed dated October 24, 1966. Since that time, this lot and the property known as 2 Waugh Avenue have enjoyed common ownership. Both lots are now owned by the Petitioners.

As indicated above, the Petitioners seek a special hearing requesting that the Zoning Commissioner approve and affirm the validity of this fourth lot, identified as Lot 2A on Petitioner's Exhibit 1. The Petitioners assert that if such a finding is not made, then the other three lots are likewise illegal and were not created by lawful subdivision. However, this assertion is, in my view, erroneous. There are significant differences between the subject lot and the three lots which were created beforehand. First, the three pre-existing lots (e.g., the Hammond property, the Childs property and the Goldman property at 2 Waugh Avenue) are all of sufficient size to satisfy the then existing area requirements. The subject property, Lot 2A of Waugh Avenue, is undersized.

The Petitioners also argued that the subdivision is proper because same was made pursuant to a "testamentary disposition." Specifically, the Petitioners rely on Section 26-171(4) of the Baltimore County Code. However, that Section is inapplicable to the facts surrounding the creation of this lot. First, this lot was not created by "Court Order, Will, or the Laws of Intestates Succession" as required by Section 26-171 (4). The lot was conveyed by deed for valid consideration to the Petitioners' predecessors in title. That is, the lot was not created by the terms of the decedant's will, the Laws of Intestates Succession, or Court Order. Rather it was created by a valid sale of the decedant's property. Section

26-171(4) of the Code must be narrowly construed so as to permit an exemption only when the subdivision is specifically created by the will itself and not sold by way of public sale for valid consideration.

Even assuming arguendo that Section 26-171(4) could be so construed, it is inapplicable in this case. This statute has been interpreted by the Circuit Court of Baltimore County within Case No. 88-CG-1510, People's Counsel for Baltimore County vs. Thomas J. Graziano, et al. Within the Court's written opinion rendered in that case, it was noted that Section 22-42(4) "exempts such properties (so created) from having to go through the County Review Group, but has no effect on the Baltimore County Zoning Regulations." Thus, even if the subdivision which created Lot 2A was by will, it is exempt only from the requirements of the CRG process and not the B.C.Z.R. For these reasons, the Petition for Special Hearing must be denied and I will so order.

Further, from a practical standpoint, it is significant that Lot 2A enjoys common ownership with Lot 2, and has since 1966. Thus, the Petitioners' argument that they are unduly burdened by this denial cannot be sustained. The Goldmans, in effect, have an oversized lot which enjoys certain benefits rather than finding themselves in a position as being the owners of Lot 2A only, who, in such a case, would find themselves unable to develop the property. Further, for this reason and others, the Petitioners do not satisfy the requirements of Section 304 of the B.C.Z.R. which permits the construction of a one-family dwelling on an undersized lot. The conditions required by Section 304 cannot be met by the Petitioners.

Turning to the requested variances set forth above, the Petitioners presented considerable testimony and argument that there can be no

reasonable and economic use of the subject property if it is not developed pursuant to the requested variances. The testimony presented by the Petitioners and their witnesses emphasized the history of the creation of this lot as outlined above, and the fact that same would be unusable if the variances were not granted. Further, Mr. Goldman testified that there were a number of houses in the vicinity which were built on undersized lots similar in size to the subject property, and that the proposed construction would be consistent with existing development. He testified that certain architectural and building standards would be maintained so that the house would be compatible with the existing locale.

As to the Protestants' testimony, Mr. Hammond, Mr. Childs and others testified that the variances requested should not be granted. They noted that the subject property was significantly undersized and could not support a single family dwelling. They pointed out that in considering the amount of land taken away from Lot 2A by the right-of-way of Waugh Avenue, the subject property would contain even less than 14,505.48 sq.ft. and that the variance for lot area would be even greater than that requested. The Protestants also objected to any increase in development along Waugh Avenue due to traffic congestion at its intersection with Butler Road. Lastly, Mr. Childs and Mr. Hammond conveyed certain fears that additional development would cause difficulties with water runoff and septic systems in the area.

The power to grant variances from height and area regulations is conferred upon the Zoning Commissioner by Section 307 of the B.C.Z.R. Within that Section, a two-prong test is offered. First, the Petitioners must demonstrate that strict compliance with the regulations would result in practical difficulty or unreasonable hardship.

The appellate courts of this State have defined the Petitioners' burden in demonstrating practical difficulty. In McLean vs. Soley, 270 Md. 208, (1973) to prove practical difficulty for an area variance, the Petitioners must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

In the instant case, it is apparent from the testimony that the Petitioners have met their burden. Clearly, strict compliance with the regulations would unreasonably prevent the use of the property for a permitted purpose, i.e., the construction of a single family dwelling.

However, the second prong of the test requires a different consideration. Specifically, the regulations provide that such a variance shall be granted only where there will be no "substantial injury to the public health, safety and general welfare." In evaluating the request under that prong of the test, it is clear that the variance should be denied. Quite simply, the subject property is not large enough to support construction of a single family dwelling as proposed. That is, the locale mostly features substantial houses on large lots. In my view, construction on this undersized lot would be incompatible with the surrounding locale and detrimental to the health, safety and general welfare of the community. For that reason, the Petition for Zoning Variance must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons set forth above, the relief requested in the special hearing and variances requested shall be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 14th day of November, 1991 that the Petition for Special Hearing to approve and affirm the validity of the subdivision of the subject property, identified as Lot 2A Waugh Avenue, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance from Section 1802.3.c.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 5 feet in lieu of the required 25 feet and a sum of the side yards of 20 feet in lieu of the required 40 feet, a minimum lot width of 75 feet in lieu of the required 100 feet, and a minimum lot area per dwelling unit of 14,505 sq.ft. in lieu of the required 20,000 sq.ft., for a proposed dwelling on Lot 2A, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

LES:bjs

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

November 14, 1991

Deborah C. Dopkin, Esquire
502 Washington Avenue, Suite 220
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE
E/S Waugh Avenue, 145' N of Butler Road
(2A Waugh Avenue)
3rd Election District - 4th Councilmanic District
Fred R. Goldman, et ux - Petitioners
Case No. 92-71-SPHA

Dear Ms. Dopkin:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Zoning Variance have been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. William E. Hammond
4626 Butler Road, Glyndon, Md. 21071

Mr. & Mrs. John C. Childs, Jr.
4 Waugh Avenue, Glyndon, Md. 21071

Mr. John W. McGrain
Office of Planning

People's Counsel; File

MICROFILMED

PETITION FOR SPECIAL HEARING
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 92-71-SPHA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve and affirm the validity of the subdivision of Lot 2A, Waugh Avenue, Glyndon, Maryland.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Fred R. Goldman
(Type or Print Name)
Signature: Fred R. Goldman
Address: Abigail Goldman
(Type or Print Name)
City and State: Glyndon, Maryland 21071
Attorney for Petitioner: Deborah C. Dopkin
(Type or Print Name)
Signature: Deborah C. Dopkin
Address: 2 Waugh Avenue
(Type or Print Name)
City and State: Glyndon, Maryland 21071
Name, address and phone number of legal owner, contract purchaser or representative to be contacted: Deborah C. Dopkin
Name: 502 Washington Avenue
Address Suite 220
City and State: Towson, Maryland 21204
Phone No. 339-7100
Attorney's Telephone No.: 339-7100

ORDERED By The Zoning Commissioner of Baltimore County, this 19th day of August, 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 19th day of August, 1991, at 10 o'clock A.M.

Zoning Commissioner of Baltimore County.

ORDER RECEIVED FOR FILING
Date: 11/4/91
By: [Signature]

CERTIFICATE OF PUBLICATION

TOWSON, MD., 19th day of August, 1991.
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of successive weeks, the first publication appearing on 19th day of August, 1991.

THE JEFFERSONIAN.

S. Zeke Orlov
Publisher

MICROFILMED

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 92-71-SPHA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.C.1. to permit:
a) a side yard of five feet (5') in lieu of the required twenty-five feet (25') and a sum of twenty (20) in lieu of the required forty feet (40')
b) a minimum lot width of seventy-five feet (75') in lieu of the required one hundred feet (100')
c) a minimum lot area per dwelling of 14500 square feet in lieu of the required 20,000 square feet.
of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

TO BE PRESENTED AT HEARING.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Fred R. Goldman
(Type or Print Name)
Signature: Fred R. Goldman
Address: Abigail Goldman
(Type or Print Name)
City and State: Glyndon, Maryland 21071
Attorney for Petitioner: Deborah C. Dopkin
(Type or Print Name)
Signature: Deborah C. Dopkin
Address: 2 Waugh Avenue
(Type or Print Name)
City and State: Glyndon, Maryland 21071
Name, address and phone number of legal owner, contract purchaser or representative to be contacted: Deborah C. Dopkin
Name: 502 Washington Avenue, Suite 220
Address Suite 220
City and State: Towson, Maryland 21204
Phone No. 339-7100
Attorney's Telephone No.: 339-7100

ORDERED By The Zoning Commissioner of Baltimore County, this 19th day of August, 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 19th day of August, 1991, at 10 o'clock A.M.

Zoning Commissioner of Baltimore County.

"DUPLICATE"
CERTIFICATE OF PUBLICATION

TOWSON, MD., 19th day of August, 1991.
THIS IS TO CERTIFY, that the annexed advertisement was published in OWINGS MILLS TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of successive weeks, the first publication appearing on 19th day of August, 1991.

OWINGS MILLS TIMES.

S. Zeke Orlov
Publisher

\$ 79.00

MICROFILMED

M. & H. DEVELOPMENT ENGINEERS, INC.

200 EAST JOPPA ROAD
ROOM 101, SHELL BUILDING
TOWSON, MARYLAND 21204

AUGUST 9, 1991

DESCRIPTION FOR SPECIAL HEARING AND VARIANCE
FOR #2A WAUGH AVENUE

BEGINNING for the same at a point 145 feet more or less n'ly from the center line intersection of Butler Road (50 foot Right-of-Way) and Waugh Avenue (40 foot Right-of-Way) thence N 08° 50' 00" W 75.00 feet, thence N 81° 10' 00" E 171.26 feet, thence S 09° 02' 00" E 75.00 feet thence S 81° 10' 00" W 172.41 feet to the PLACE OF BEGINNING.

Contains 0.333 acres more or less.

Being all of tract or parcel of land Recorded in the Land Records of Baltimore County in Liber 8194, Folio 533. in the 4th Election District, 3rd Containing District in Baltimore Co.

Malcolm E. Hudkins
Registered Surveyor #5095

MICROFILMED

ITEM 67

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

92-71-SPHA

District: 3rd Date of Posting: 7-23-91
Posted for: Special Hearing & Variance
Petitioner: Fred R. Goldman, et al.
Location of property: 145' N. of Butler Road, E. of 13th Butler Road
2 A. Waugh Avenue
Location of Sign: E. front of subject property 2 A Waugh Avenue
Remarks:
Posted by: S. J. Orlov
Date of return: 7-27-91
Number of Signs: 2

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

92-71-SPHA

District: 3rd Date of Posting: December 22, 1991
Posted for: Appeal
Petitioner: Fred R. Goldman, et al.
Location of property: E. of Waugh Avenue, 145' N. of Butler Road
2 A. Waugh Avenue
Location of Sign: E. of Waugh Avenue in front of subject property
Remarks:
Posted by: S. J. Orlov
Date of return: December 27, 1991
Number of Signs: 1

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Account: R 001-4150

Number: 92-71-SPHA

Please Make Check/Deposit to the Baltimore County \$275.00
BA 0008133AM12-12-91

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Account: R 001-4150

Number: 92-71

Please Make Check/Deposit to the Baltimore County \$129.60
BA 001014AM10-15-91

111 West Chesapeake Avenue
Towson, MD 21204

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

DATE: 9/23/91

Fred R. Goldman
2 Waugh Avenue
Glyndon, Maryland 21071

RE:
CASE NUMBER: 92-71-SPHA
145' N of Butler Road, E/S Butler Road
2A Waugh Avenue
3rd Election District - 4th Councilmanic
Petitioner(s): Fred R. Goldman, et al
HEARING: TUESDAY, OCTOBER 15, 1991 at 11:00 a.m.

Dear Petitioner(s):

Please be advised that \$129.60 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

cc: Deborah C. Dopkin, Esq.

Form C44

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21285-6754

Kathy Rushton - 887-2660
Jury Assignments-Civil
General Settlement Conferences

- 887-2661
Non-Jury Assignments-Civil
Special Settlement Conferences

Irene Summers - 887-2660
Civil Assignment Commissioner

TO:

August 14, 1992

Deborah C. Dopkin, Esq.

County Board of Appeals of Baltimore County PP
Room 49, Court House
Towson, Maryland 21204

Office of Law PP
400 Washington Ave
Towson, Md 21204

RE: NON JURY 92CV 6409 IN THE MATTER OF THE APPLICATION OF FRED R. GOLDMAN, ET. AL. VS. BOARD OF APPEALS OF BALTO. CO.

HEARING DATE:

FRIDAY, NOVEMBER 20, 1992 @ 9:30 A.M.

ON THE FOLLOWING:

Appeal: 2 hours

MICROFILMED

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not constitute reason for postponement.

If the above Hearing Date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS PRIOR TO 30 DAYS OF TRIAL should be directed to the attention of Irene Summers. POSTPONEMENTS WITHIN 30 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments-Joyce Grimm-887-3497.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

Form C44

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21285-6754

Kathy Rushton - 887-2660
Jury Assignments-Civil
General Settlement Conferences

- 887-2661
Non-Jury Assignments-Civil
Special Settlement Conferences

Irene Summers - 887-2660
Civil Assignment Commissioner

TO:

August 14, 1992

Deborah C. Dopkin, Esq.

County Board of Appeals of Baltimore County PP
Room 49, Court House
Towson, Maryland 21204

Gregory E. Hammond, Esq.

Office of Law PP
400 Washington Ave
Towson, MD 21204

RE: NON JURY 92CV 6409 IN THE MATTER OF THE APPLICATION OF FRED R. GOLDMAN, ET. AL. VS. BOARD OF APPEALS OF BALTO. CO.

HEARING DATE:

FRIDAY, NOVEMBER 20, 1992 @ 9:30 A.M.

ON THE FOLLOWING:

Appeal: 2 hours

Please see the below notations.

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not constitute reason for postponement.

If the above Hearing Date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS PRIOR TO 30 DAYS OF TRIAL should be directed to the attention of Irene Summers. POSTPONEMENTS WITHIN 30 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments-Joyce Grimm-887-3497.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

111 West Chesapeake Avenue
Towson, MD 21204

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

AUGUST 23, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

CASE NUMBER: 92-71-SPHA
145' N of Butler Road, E/S Butler Road
2A Waugh Avenue
3rd Election District - 4th Councilmanic
Petitioner(s): Fred R. Goldman, et al
HEARING: TUESDAY, OCTOBER 15, 1991 at 11:00 a.m.

Special Hearing to approve and affirm the validity of the subdivision of lot 2A, Waugh Avenue. Variance to permit a side yard of 5 feet in lieu of the required 25 feet and a sum of 20 feet in lieu of the required 40 feet; to permit a minimum lot width of 75 feet in lieu of the required 100 feet; and to permit a minimum lot area per dwelling of 14,505 square feet in lieu of the required 20,000 square feet.

J. Robert Haisa
Zoning Commissioner of
Baltimore County

cc: Fred R. Goldman
Deborah C. Dopkin, Esq.

MICROFILMED



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING - ROOM 315

111 W. CHESAPEAKE AVENUE

OLD COURTHOUSE

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

TOWSON, MARYLAND 21204
(301) 887-3180
January 15, 1992

ROOM 49
400 WASHINGTON AVE.

NOTICE OF ASSIGNMENT
NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-71-SPHA

FRED R. GOLDMAN, ET UX
E/s Waugh Ave., 145' N of Butler
Rd. (2A Waugh Ave.)
3rd Election District;
4th Councilmanic District

SPH-Approve and affirm validity of
subdivision of property;
VAR-setbacks/lot width/lot area
11/14/91 - Z.C.'s Order DENYING
Petitions.

ASSIGNED FOR: WEDNESDAY, MAY 13, 1992 AT 10:00 a.m.

cc: Mr. and Mrs. Fred Goldman - Petitioners

Deborah Dopkin, Esquire - Counsel for Petitioners

Mr. Vincent J. Moskunus

Mr. William E. Hammond

Mr. John C. Childs, Jr.

John W. McGrain

People's Counsel for Baltimore County

P. David Fields

Pat Keller

Public Services

Lawrence E. Schmidt

Timothy M. Kotroco

James E. Dyer

W. Carl Richards, Jr.

Docket Clerk - Zoning

Arnold Jablon, Director of Zoning

Administration

LindaLee M. Kuszmaul

Legal Secretary

Gregory E. Hammond, Esq. -

Counsel for Dorothy D. Hammond, Pet.

1/15/92 - Following parties notified of hearing set for May 13, 1992 at 10:00 a.m.:

Mr. and Mrs. Fred Goldman
Deborah Dopkin, Esquire
Mr. Vincent J. Moskunus
Mr. William E. Hammond
Mr. John C. Childs, Jr.
John W. McGrain
People's Counsel for Baltimore County
P. David Fields
Pat Keller
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING - ROOM 315

111 W. CHESAPEAKE AVENUE

OLD COURTHOUSE

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

TOWSON, MARYLAND 21204
(301) 887-3180
January 15, 1992

ROOM 49
400 WASHINGTON AVE.

NOTICE OF ASSIGNMENT
NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-71-SPHA

FRED R. GOLDMAN, ET UX
E/s Waugh Ave., 145' N of Butler
Rd. (2A Waugh Ave.)
3rd Election District;
4th Councilmanic District

SPH-Approve and affirm validity of
subdivision of property;
VAR-setbacks/lot width/lot area
11/14/91 - Z.C.'s Order DENYING
Petitions.

ASSIGNED FOR: WEDNESDAY, MAY 13, 1992 AT 10:00 a.m.

cc: Mr. and Mrs. Fred Goldman - Petitioners

Deborah Dopkin, Esquire - Counsel for Petitioners

Mr. Vincent J. Moskunus

Mr. William E. Hammond

Mr. John C. Childs, Jr.

John W. McGrain

People's Counsel for Baltimore County

P. David Fields

Pat Keller

Public Services

Lawrence E. Schmidt

Timothy M. Kotroco

James E. Dyer

W. Carl Richards, Jr.

Docket Clerk - Zoning

Arnold Jablon, Director of Zoning

Administration

LindaLee M. Kuszmaul
Legal Secretary

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
Room 48, Old Courthouse (301) 887-3180
400 Washington Avenue January 15, 1992

NOTICE OF ASSIGNMENT
NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-71-SPHA FRED R. GOLDMAN, ET UX
E/s Waugh Ave., 145' N of Butler Rd. (2A Waugh Ave.)
3rd Election District;
4th Councilmanic District

SPH-Approve and affirm validity of subdivision of property;
VAR-setbacks/lot width/lot area
11/14/91 - Z.C.'s Order DENYING Petitions.

ASSIGNED FOR: WEDNESDAY, MAY 13, 1992 AT 10:00 a.m.

cc: Mr. and Mrs. Fred Goldman - Petitioners

Deborah Dopkin, Esquire - Counsel for Petitioners

Mr. Vincent J. Moskunus

Mr. William E. Hammond, Esq. - Petitioner

Mr. John C. Childs, Jr.

John W. McGrain
People's Counsel for Baltimore County
P. David Fields
Pat Keller
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

LindaLee M. Kusznau
Legal Secretary

E/s Waugh Ave., 145' N of Butler Rd. (2A Waugh Ave.)

#92-71-SPHA FRED R. GOLDMAN, ET UX
3rd District Appealed: 11/25/91

111 West Chesapeake Avenue
Towson, MD 21204

October 1, 1991

Deborah C. Dopkin, Esquire
502 Washington Avenue, Suite 220
Towson, MD 21204

RE: Item No. 67, Case No. 92-71-SPHA
Petitioner: Fred R. Goldman, et ux
Petition for Special Hearing and
Zoning Variance

Dear Ms. Dopkin:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very Truly yours,

James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. & Mrs. Fred R. Goldman
2 Waugh Avenue
Glydon, MD 21071

Your petition has been received and accepted for filing this
8th day of August, 1991.

Arnold Jablon
DIRECTOR

Received By:

James E. Dyer
Chairman
Zoning Plans Advisory Committee

Petitioner: Fred R. Goldman, et ux

Petitioner's Attorney: Deborah C. Dopkin

Baltimore County Government
Fire Department
700 East Joppa Road, Suite 901
Towson, MD 21204-5500
(301) 887-4500
SEPTEMBER 16, 1991

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: FRED R. GOLDMAN
Location: #2A WAUGH AVENUE
Item No.: 67 Zoning Agenda: AUGUST 27, 1991

Centlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: [Signature] Noted and Approved
Special Inspection Division Fire Prevention Bureau

JP/KEK

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

August 23, 1991

TO: Arnold Jablon, Director
Zoning Administration and Development Management
FROM: DIVISION OF GROUND WATER MANAGEMENT
SUBJECT: Zoning Item #67, Zoning Advisory Committee Meeting of August 27, 1991, Fred R. Goldman, et ux, 145 N of Butler Road, E/S Butler Road (#2A Waugh Avenue), D-3, Public Water and Sewer.

COMMENTS ARE AS FOLLOWS:

Any existing water wells, septic systems and/or underground fuel tanks must be located prior to subdivision approval.

SSF:rmp
67ZNG/GWRMP

RECEIVED
AUG 25 1991
ZONING OFFICE

MICROFILMED

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
September 27, 1991

TO: ZONING COMMISSIONER, DEPARTMENT ZONING
FROM: RICHARD F. SEIM, PLANS REVIEW CHIEF,
DEPARTMENT OF PERMITS & LICENSES
SUBJECT: ZONING ITEM #: 67
PROPERTY OWNER: Fred R. Goldman, et ux
LOCATION: 145' N of Butler Road, E/S Butler Road (#2A Waugh Avenue)
ELECTION DISTRICT: 3rd
COUNCILMANIC DISTRICT: 4CJ

A REVIEW OF THE SITE PLAN FOR THE ABOVE ZONING ITEM INDICATES THE FOLLOWING:

- () PROPOSED SITE PLAN DOES, DOES NOT, COMPLY TO STATE CODE OF MARYLAND REGULATION 05.02.02, MARYLAND BUILDING CODE FOR THE HANDICAPPED.
- () PARKING LOCATION () RAMPS (degree slope)
- () NUMBER PARKING SPACES () CURB CUTS
- () BUILDING ACCESS () SIGNAGE
- () PLAN DOES, DOES NOT COMPLY TO SET BACKS FOR EXTERIOR FIRE SEPARATION DISTANCE OF ARTICLE 5 AND ARTICLE 9 OF THE CURRENT BALTIMORE COUNTY BUILDING CODE.
- (X) A BUILDING PERMIT IS REQUIRED BEFORE ANY CONSTRUCTION CAN BEGIN. SECTION 111.1 OF ARTICLE 1. CONSTRUCTION DRAWINGS MAY BE REQUIRED.
- () A CHANGE OF OCCUPANCY PERMIT IS REQUIRED TO CHANGE THE EXISTING USE OF THE STRUCTURE TO THE PROPOSED USE. SEE ARTICLE THREE AND ARTICLE ONE, SECTION 103.2 ALTERATIONS MAY BE NECESSARY BY CODE TO COMPLY TO NEW USE REQUIREMENTS.
- () STRUCTURE IS SUBJECT TO FLOOD PLAIN LIMITATIONS, SECTION 517.0 COUNCIL BILL #192-90 (BALTIMORE COUNTY BUILDING CODE).
- () OTHER -

PERMITS MAY BE APPLIED FOR @ ROOM 100, 111 WEST CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204 - PHONE - 887-3900.

THIS REVIEW COVERS ONLY MAJOR ITEMS ASSOCIATED WITH THE SITE PLAN. A FULL REVIEW MAY BE CONDUCTED WHEN THE PERMIT APPLICATION AND PLANS ARE SUBMITTED.

APPLICABLE CODE: 1990 NATIONAL BUILDING CODES AS ADOPTED BY COUNTY COUNCIL BILL #192-90 EFFECTIVE 1/13/91

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 4, 1991
Zoning Administration and Development Management
FROM: Robert W. Bowling, P.E.
RE: Zoning Advisory Committee Meeting for August 27, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 53, 62, 64, 65, 66, 68, 70, 71, 72, 75, 76, 77, 78, 79 and 80.

For Item 67, this site must be submitted through the minor subdivision process for review and comments.

For Item 69, if maintenance or repair is required on the existing 15-inch drain along the east property line, Baltimore County may require the removal of the car port at the owner's expense.

For Item 74, this site is subject to the previous minor subdivision comments.

Robert W. Bowling, P.E., Chief
Developers Engineering Division

RWB:s

MICROFILMED

APPEAL

Petition for Special Hearing and Zoning Variance
E/S Waugh Avenue, 145' N of Butler Road
(2A Waugh Avenue)
3rd Election District - 4th Councilmanic District
FRED R. GOLDMAN, ET UX - Petitioner
Case No. 92-71-SPHA

Petition(s) for Special Hearing and Zoning Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments (Included with ZAC Comments)

Petitioner's & Protestant Sign-In Sheets

Petitioner's Exhibits:

1. Plat to accompany petition
2. Deed to William E. Hammond
3. - 4. - Deeds
6. - 9. - Listings
10. Portion of 200 scale map
11. Copy of petition from 64-94-A
12. Copy of petition from 68-244-A
13. Copy of petition from 84-332-A
14. Deed
15. Petition of Support from neighbors

Protestant's Exhibits: 1. & 2. No exhibits in file marked "#1 & #2"
3 - 5. Letters of opposition

Unmarked Exhibit: Petition in Opposition

Zoning Commissioner's Order dated November 14, 1991 (Denied)

Notice of Appeal received November 25, 1991 from Deborah C. Dopkin,
Attorney on behalf of the petitioner

cc: Fred and Abigail Goldman - 2 Waugh Avenue, Glyndon, MD

Deborah Dopkin, Esquire - 502 Washington Avenue, Towson, MD 21204

Vincent J. Moskunus - 200 E. Joppa Road, Towson, MD 21204

Appeal Checklist - Case No. 92-71-SPHA
December 11, 1991
Page 2

William E. Hammond - 4626 Butler Road, Glyndon, MD 21071

John C. Childs, Jr. - 4 Waugh Avenue, Glyndon, MD 21071

John W. McGrain - 401 Bosley Avenue, Towson, MD 21204

People's Counsel -Rm. 304, County Office Bldg., Towson, MD 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of Zoning Administration
and Development Management
Public Services

APPEAL

Petition for Special Hearing and Zoning Variance
E/S Waugh Avenue, 145' N of Butler Road
(2A Waugh Avenue)
3rd Election District - 4th Councilmanic District
FRED R. GOLDMAN, ET UX - Petitioner
Case No. 92-71-SPHA

✓Petition(s) for Special Hearing and Zoning Variance

✓Description of Property

✓Certificate of Posting

✓Certificate of Publication

Entry of Appearance of People's Counsel (None submitted)

✓Zoning Plans Advisory Committee Comments

✓Director of Planning & Zoning Comments (Included with ZAC Comments)

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cc: Fred and Abigail Goldman - 2 Waugh Avenue, Glyndon, MD

*Deborah Dopkin, Esquire - 502 Washington Avenue, Towson, MD 21204

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Appeal Checklist - Case No. 92-71-SPHA
December 11, 1991
Page 2

William E. Hammond - 4626 Butler Road, Glyndon, MD 21071

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James E. Dyer, Zoning Supervisor
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of Zoning Administration
and Development Management
Public Services

*Gregory E. Hammond, Esq. - Counsel for Dorothy
Turnbull, Mix & Farmer
706 Wash. Ave.
21204
(entered appearance 5/6/92)*

LAW OFFICES
ROSOLIO AND SILVERMAN, P.A.
SUITE 220, NOTTINGHAM CENTRE
503 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
TELEPHONE 410-330-7100
FAX NO. 410-330-7107

November 22, 1991

Charlotte Radcliffe
Baltimore County Zoning Office
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Case Number 92-71-SPHA

Dear Ms. Radcliffe:

Please enter the enclosed Notice of Appeal which I am herewith filing on behalf of Fred and Abigail Goldman, 2 Waugh Avenue, Glyndon, Maryland 21071. Also enclosed is the Appeal filing fee of \$250.00 (representing a fee of \$125.00 for the appeal of the denial of the special hearing and \$125.00 for the denial of the zoning variance), along with the sign fee of \$25.00.

I would appreciate your acknowledging timely receipt of the filing of this Appeal and of the fees, by return correspondence to me. Thank you.

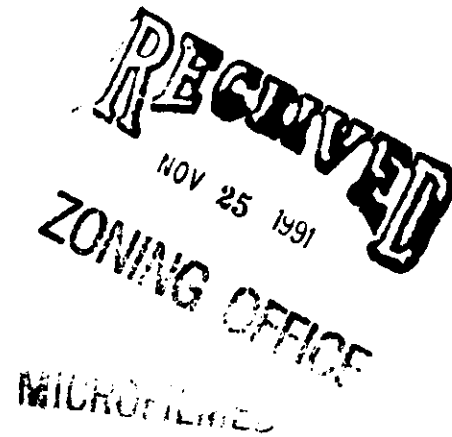
Very truly yours,
ROSOLIO AND SILVERMAN, P.A.

Deborah C. Dopkin
Deborah C. Dopkin

DCD/kmc

Enclosure

cc: Mr. and Mrs. Fred R. Goldman
People's Counsel



LAW OFFICES
ROSOLIO AND SILVERMAN, P.A.
SUITE 220, NOTTINGHAM CENTRE
503 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4513
TELEPHONE 410-330-7100
FAX NO. 410-330-7107

July 13, 1992

Ms. Carolyn Peatt
602A Church Road
Reisterstown, Maryland 21136

RE: Case Number 92-71-SPHA (Fred R. Goldman, et ux)

Dear Ms. Peatt:

Please find enclosed my check in the amount of \$300.00 as the initial payment of the cost of the transcript in the appeal of the above captioned matter.

Thank you for your attention to this.

Very truly yours,
ROSOLIO AND SILVERMAN, P.A.

Deborah C. Dopkin

DCD/kmc

Enclosure

cc: Ms. LindaLee M. Kuszmaul
Mr. and Mrs. Fred R. Goldman

WILLIAM E. HAMMOND
ATTORNEY AT LAW
107 MAIN STREET
REISTERSTOWN, MARYLAND 21136
220-1321

December 21, 1991

Arnold Jablon,
Zoning Director
County Office Building
Towson, Maryland 21204

Re: Case No. 92-71-SPHA
Fred R. Goldman, et ux

Dear Mr. Jablon:

The above entitled matter was heard before Commissioner Lawrence E. Schmidt on October 15, 1991 at 11:00 A.M. at which time the matter was recorded.

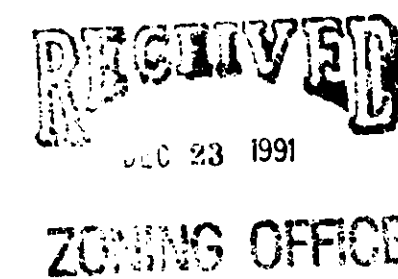
It is the purpose of this letter to request a copy of the tape(s) of the hearing. I am enclosing a check in the amount of \$10.00 to cover cost of same.

Thank you for your kind and prompt attention.

Very truly yours,

William E. Hammond
William E. Hammond

WJH:GCE
BHL



LAW OFFICES
TURNBULL, MIX & FARMER
TOWSON, MARYLAND 21204

G. WARREN MIX
JAMES R. FARMER
DOROTHY F. TURNBULL
PATRICK J. PERKINS
GREGORY E. HAMMOND

14101 RUMFORD
14101 RUMFORD
14101 RUMFORD
14101 RUMFORD
14101 RUMFORD

OF COUNSEL
WILLIAM E. HAMMOND
107 MAIN STREET
REISTERSTOWN, MD 21136
14101 RUMFORD
JOHN GRADY TURNBULL
(1900-1984)
OCEAN CITY OFFICE
810 N. 15TH STREET
OCEAN CITY, MD 21848
(410) 820-9419

May 6, 1992

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Appeal by Fred R. Goldman, Et Ux - Petitioner
Case No.: 91-71-SPHA
Petition for Special Hearing and Zoning Variance
E/S Waugh Avenue, 145' N of Butler Road
(2A Waugh Avenue)
3rd Election District, 4th Councilmanic District

Dear Board:

Please enter the appearance of Gregory E. Hammond, Esquire for Dorothy D. Hammond, Protestant in the above referenced matter.

Very truly yours,

TURNBULL, MIX & FARMER

Gregory E. Hammond
Gregory E. Hammond

GEH/alm

cc: Mr. & Mrs. Fred Goldman
Deborah Dopkin, Esquire
Mr. Vincent J. Moskunus
Mr. John C. Childs, Jr.
Mr. John W. McGrain
People's Counsel

BALTIMORE
COUNTY
HISTORICAL
TRUST inc.

April 24, 1992

Mr. William Hockett, Chairman
Baltimore County Board of Appeals
400 Washington Avenue
Towson, Maryland 21204

Dear Mr. Hockett,

I am writing to you regarding Case 92-71-SPHA, to be heard on May 13, 1992. The petitioners are appealing Zoning Commissioner Lawrence E. Schmidt's ruling of last November. The lot lies in the Baltimore County Landmarks Preservation Commission's oldest local historic register district and is in a National Historic Register District as well. The history of Glyndon is well documented and many of the residents wish to preserve the unique historic character. The Baltimore County Historical Trust, Inc. believes that Commissioner Schmidt's ruling should be upheld. "...construction on this undersized lot would be incompatible with the surrounding locale and detrimental to the health, safety and general welfare of the community."

Sincerely,
Eugene Adams
Eugene Adams
Chairman

John and Allison Childs
4 Waugh Avenue
Glyndon, Maryland 21071

September 26, 1991

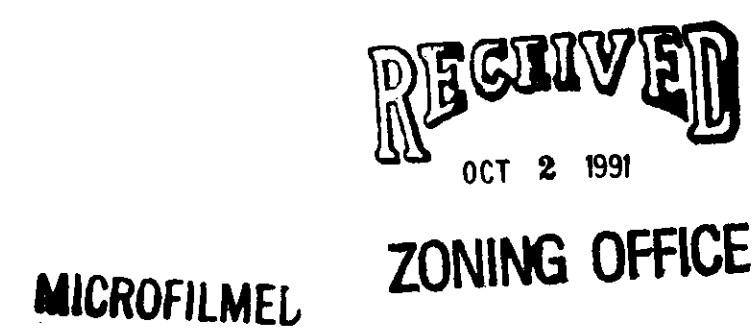
Mr. Lawrence E. Schmidt
Baltimore County Zoning Commissioner
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Mr. Schmidt:

This letter is written in opposition to the Petition for Special Hearing and Variance, Item No. 67, Case No. 92-71-SPHA, filed by Fred and Abigail Goldman for the property known as No. 2 and 2A Waugh Avenue, Glyndon, Maryland. As one of the two contiguous owners to the subject property, the other being William and Dorothy Hammond of 4626 Butler Road, we would clearly be the most affected by the granting of this variance.

Our reasons for opposing the variance are the following:

Size and Setbacks. The subject property, 2A Waugh Avenue, is 25 $\frac{1}{2}$ less square footage than required by current zoning, and the sum of the requested setbacks in the petition is 50% less than required. Neither of these percentages is slight, so that any house sandwiched in on the subject property between our house and the Goldmans' house would, by the very size of the lot, have to be either comparatively too small or too close. Since one of the principal reasons for zoning regulations is to protect property values, the granting of a variance in this instance would strip us of that protection and place the value of our home and thus the investment of our savings in jeopardy.



Mr. Lawrence E. Schmidt
September 26, 1991
Page 2

The dangerous and congested intersection at Waugh Avenue and Butler Road. Traffic coming into Glyndon from the east on Butler Road must negotiate a very steep hill at the top of which is the intersection with Waugh Avenue. Traffic pulling out of Waugh Avenue onto Butler Road has very little time to react to the traffic coming up the hill due to limited visibility and the speed at which this traffic is traveling. The situation is very dangerous. In addition, multiple automobiles from 4700 Butler Road, and 2 and 3 Waugh Avenue all park on the street in close proximity to this intersection, making it difficult at times for two cars to pass each other on the street without one pulling over, and even at times blocking traffic trying to pull into Waugh Avenue from Butler Road. To add another house in the midst of this already congested and dangerous intersection would certainly be ill advised.

The septic system of 4626 Butler Road. Mr. Bill Hammond will detail the specifics at the Special Hearing of how the building of a house on the subject property would adversely affect his septic system. Suffice it to say in this letter that the drainage from the property flows in the direction of 4626 Butler Road and would alter the dynamics of the Hammonds' lot.

Real estate speculation. Although a number of conflicting reasons have been forwarded by the Goldmans for their pursuit of this variance, it is our contention that the main reason is nothing more than real estate speculation. The Goldmans have a history of this sort of activity in Glyndon, having sold off a contiguous lot at their former home on Chatsworth Avenue. We carefully researched public information regarding the subject property prior to purchasing our home and took comfort in the fact that current zoning would not permit a house to be built there. To grant a variance and allow the Goldmans to profit at our expense would certainly be an injustice.

Mr. Lawrence E. Schmidt
September 26, 1991
Page 3

Finally, we are in the process of collecting the support of both the Glyndon Association and Historic Glyndon, Inc., who both in the past have been solidly opposed to this sort of development. There are just too many side yards in Glyndon that could be developed if this were to become a precedent.

We appreciate your attention and concern to this matter.

Yours sincerely,

John C. Childs, Jr.
John C. Childs, Jr.

Allison B. Childs
Allison B. Childs

John and Allison Childs
4 Waugh Avenue
Glyndon, Maryland 21071

April 25, 1992

Mr. William T. Hackett, Chairman
Baltimore County Board of Appeals
Old Courthouse - Room 49
400 Washington Ave.
Towson MD 21204

Dear Mr. Hackett:

This letter is written in opposition to the appeal of the Petition for Special Hearing and Variance, Case No. 92-71-SPHA, filed by Fred and Abigail Goldman for the property referred to as No. 2 and 2A Waugh Avenue, Glyndon, Maryland. As one of the two contiguous owners to the subject property, the other being Dorothy Hammond of 4626 Butler Road, we would clearly be the most affected by the granting of this variance.

Our reasons for opposing the variance are the following:

Size and Setbacks. The subject property, 2A Waugh Avenue, is over one-third less square footage than required by current zoning, and the sum of the requested setbacks in the petition is 50% less than required. Neither of these percentages is slight, so that any house sandwiched in on the subject property between our house and the Goldmans' house would, by the very size of the lot, have to be either comparatively too small or too close. Since one of the principal reasons for zoning regulations is to protect property values, the granting of a variance in this instance would strip us of that protection and place the value of our home and thus the investment of our savings in jeopardy.

The dangerous and congested intersection at Waugh Avenue and Butler Road. Traffic coming into Glyndon from the east on Butler Road must negotiate a very steep hill at the top of which is the intersection with Waugh Avenue. Traffic pulling out of Waugh Avenue onto Butler Road has very little time to react to the traffic coming up the hill due to limited visibility and the

September 16, 1991

J. Robert Haines
Baltimore County Zoning Commissioner
111 W. Chesapeake Avenue
Towson, MD 21204

Dear Mr. Haines:

I have a copy of a request for a zoning variance, a number 92-71-SPHA, which requests an apparent exorbitant variance from that which zoning guidelines have stipulated. Why would anyone even consider changing the guidelines to this extent when they were set to protect the property owners of the relevant area. If such variances are granted, for what purposes are the guidelines set. I am not near the property in question, but I empathize with those in contiguity. I stand opposed to it unless evidence indicates community enhancement in that area.

Sincerely,

George B. Wroe
George B. Wroe
4802 Butler Rd.
Glyndon, Md. 21071

RECEIVED
SEP 24 1991
ZONING OFFICE

September 16, 1991

Arnold Jablon

I have a copy of a request for a zoning variance, a number 92-71-SPHA, which requests an apparent exorbitant variance from that which zoning guidelines have stipulated. Why would anyone even consider changing the guidelines to this extent when they were set to protect the property owners of the relevant area. If such variances are granted, for what purposes are the guidelines set. I am not near the property in question, but I empathize with those in contiguity. I stand opposed to it unless evidence indicates community enhancement in that area.

Sincerely,

George B. Wroe
George B. Wroe
4802 Butler Rd.
Glyndon, Md. 21071

312 Central Avenue
Glyndon, MD 21071
September 20, 1991

Mr. Arnold Jablon
Dir., Zoning Administration/Development Management
111 W. Chesapeake Avenue
Towson, MD 21204

Dear Mr. Jablon,

Allow me to quote from a circular published by the Office of Planning and Zoning on April 11, 1989. I picked it up during the Master Plan Public Meetings by sector.

"As a ... definition for the purposes of the new ... Master Plan, community conservation refers to... efforts designed to maintain or enhance the physical, social, and economic resources of the County's older... communities."

"Community conservation is... one of the major priorities of the new Master Plan. Without preventive action taken by the County and local citizens in the immediate future, serious problems could develop during the next decade."

Since this is supposedly the County's stance, and is certainly my view also, I oppose the Petition for Special Hearing and Variance, Item No. 67, Case No. 92-71-SPHA, filed by Fred and Abigail Goldman.

The lot the Goldmans wish to build on is woefully undersized. When you look at the large home adjoining this so-called separate lot, it actually appears to be the back yard of this big, turn-of-the-century home that faces Butler Road. It certainly would not "maintain" nor "enhance" the "physical resources" to wedge a house on what already seems part of a suitably spacious back yard of a three-story home.

Not granting this variance is part of the "preventive action" necessary to "maintain" our vistas which "enhance" our property values. Saganore Forest's property values also rely on the larger lots with tall trees in between. While it's true that during the 40's and 50's, a few homes were built on smaller lots, there were still plenty of the larger yards left to establish the sought-after feeling of graciousness which helps "maintain" the investment value of new planned developments. Glyndon was a planned town at the turn of the century, and the last few zoning decisions seem as though the County is determined to muck up the plan.

Glyndon has taken a beating with 2 zoning variances having been granted on Fiske Avenue in Glyndon Park, and another one on Central Avenue. During these hearings we need the County's understanding, rather than its ridicule to try to "maintain" our community within the spirit of the County's Master Plan goals. Goals which lack practical teeth unless it comes to chewing hunks out of our "older" neighborhood.

I repeat that I am utterly opposed to the Petition for Special Hearing and Variance, Item No. 67, Case No. 92-71-SPHA, filed by Fred and Abigail Goldman for the property known as No. 2 and No. 2A Waugh Avenue, Glyndon, Maryland!

Let the County show that "community conservation" is truly a major priority of the County's Master Plan.

Sincerely,

Sharon Herb
Mrs. Sharon Herb

cc:

Mr. J. Robert Haines
Mr. Jack Dillon
Mr. John McGrain

206 Central Avenue
Glyndon, Md. 21071
September 25, 1991

Mr. Arnold Jablon
Director of Zoning Administration
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Sir:

I am writing to oppose the granting of a variance, Item No. 67, Case No. 92-71-SPHA, requested by Fred and Abigail Goldman for the property they identify as No. 2 and 2A Waugh Avenue, Glyndon.

It now seems to be the trend in areas such as Glyndon to permit houses to be constructed upon smaller and smaller lots. I understand that the property mentioned above is underused by 25% and it would certainly make a mockery of the zoning regulations to allow it to qualify as a building lot.

Yours very truly,

Doris R. Hammond
(Mrs.) Doris R. Hammond

RECEIVED
SEP 26 1991
ZONING OFFICE

MICROFILMED

Mrs. George Wroe
Wroce Arbor
Glyndon, Maryland 21071

9-22-91

Dear Mr. Jablon:

Regarding zoning variance, 92-71-SPHA, filed in the village of Glyndon, I urge you to oppose this request.

Residents of our neighborhood want our property protected and I do not consider approval of this variance any enhancement to any of our properties. Mr. Goldman seeks an easy cash flow for himself in seeking this zoning variance.

Any variance in our area would not enhance our historic community in any way. Please refuse this request. Sincerely,
Rep. President Historic Glyndon, Doris R. Hammond

We, the undersigned residents of Glyndon, oppose the Petition for Special Hearing and Variance, Item No. 67, Case No. 92-71-SPHA, filed by Fred and Abigail Goldman for the property known as No. 2 and 2A Waugh Avenue, Glyndon, Maryland.

1. Allison Childs	4 Waugh Avenue
2. W. C. Childs	* Mrs. C. Childs
3. Dorothy Hemmings	4636 Butler Rd.
4. W. C. Childs	4626 Butler Road
5. Light M. King	3 Waugh Ave.
6. W. C. Childs	37 Waugh St.
7. W. S. Moore	4615 Prospect Ave
8. Marie C. Moore	4615 Prospect Avenue
9. W. C. Childs	741 Waugh Ave
10. Carol H. Milburn	7 Waugh Ave
11. Jeanne Knight	9 Waugh Ave.
12. Michael Lander	32 Waugh Ave. Sycamore
13. Margaret Schaefer	32 Waugh Ave. Sycamore
14. W. C. Childs	37 Waugh Ave. Sycamore
15. W. C. Childs	37 Waugh Ave. Sycamore

[illegible]

NAME

John W. McGraw

John C. Childs, Jr.

Allison R. Childs

Dorothy D. Hammond

MARJORIE M. WILSON

DONALD H. WILSON

DAN FORTER

ELEANOR H. TAYLOR

MARTHA I. HEALY

MARVIN N. BERLIN

KATHLEEN M. LEVIN

ROBERT J. JONES

Dora R. Hammond

FRANCES M. AGLE

CAROL MILLER

A. L. MILLER

Anna Welch

Gina Williams

Martha Clements

Muriel Welch

George B. Taylor

WM E. Hammond

ADDRESS

OFFICE OF PLANNING, TOWSON

NAYEN AVE. GLYNDEN MD 21071

4 Waugh Ave., Pkyndon, Md.

4626 Butler Rd. Glyndon, Md

14 ~~Kilgus Ave.~~ ~~Kilgus Ave.~~ 21071

" " " " "

4611 BUTLER RD GLYNDEN 21071

16 WORTHINGTON, HILLIDE, GLYNDEN

222 CENTRAL AVE, GLYNDEN, MD 21071

450 PROSPECT AVE GLYNDEN, MD 21071

29 WAUGH AVE GLYNDEN MD 21071

4611 PROSPECT AVE " " "

226 Central Ave Glyndon Md 21071

4606 PROSPECT AVE, GLYNDEN MD 21071

7 WAUGH AVE, GLYNDEN, MD 21071

7 WAUGH AVE. GLYNDEN MD 21071

4601 Prospect Ave Glyndon 21071

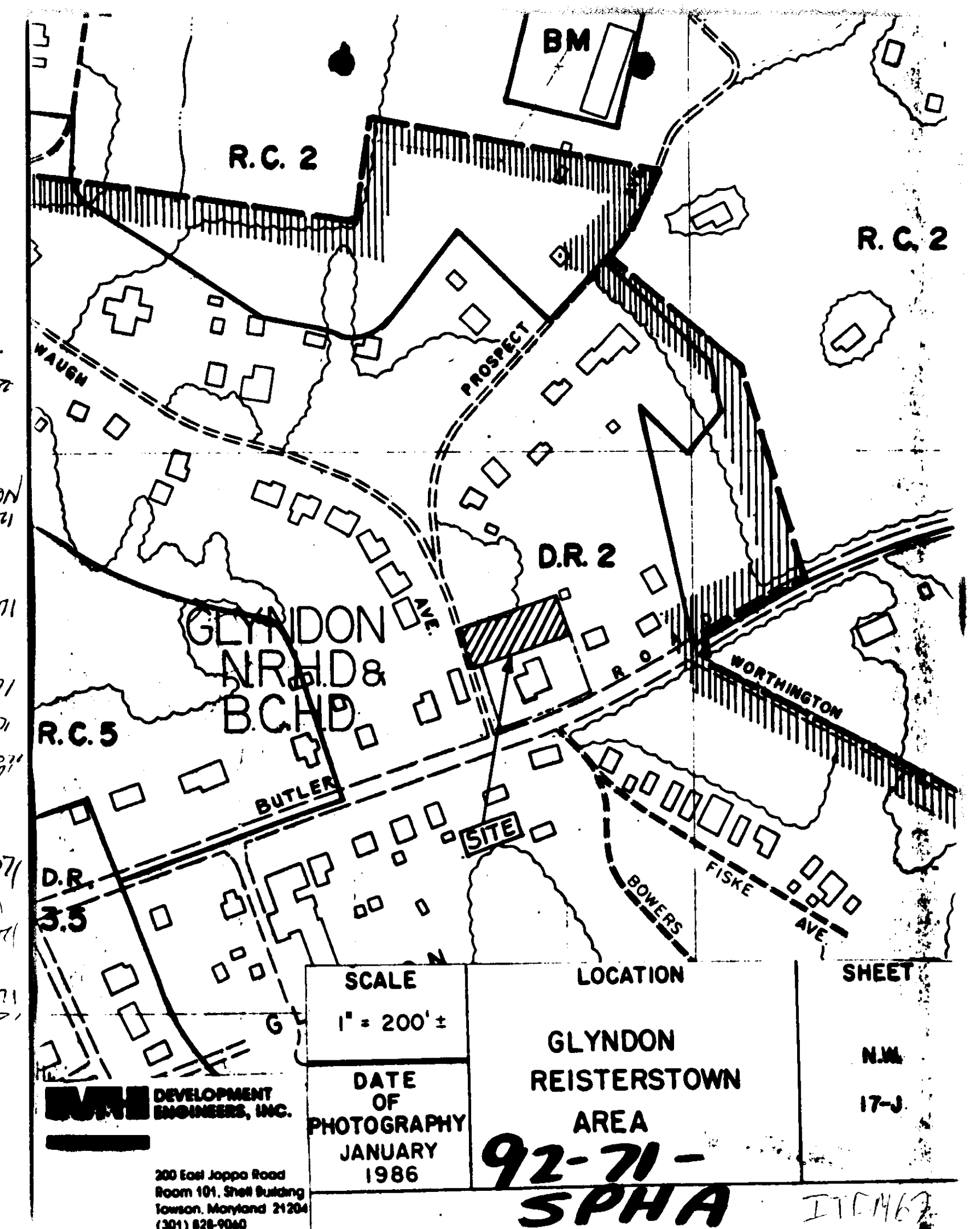
410 Prospect Ave, Glyndon 21071

209 Central Ave Glyndon

15 Glyndon, Md Ind 21071

1626 WASHINGTON ST. Glyndon

4626 BUTTER RD. GLYNDEN 21071



174.97
125
Justice, and she acknowledged the foregoing deed to be her act.
Witness my hand and notarial seal.
Notary Public
Recorded Dec. 24, 1988 at 8:30 A.M. and Examined
per William P. Boyle, Clerk.
Edwin M. Lilly
Died to
William E. Hammond
This Deed, made this 12th day of Dec-
ember, in the year Nineteen Hundred
and Eighty by and between Edwin M.
Lilly and Loretta Lilly, his wife, of the
City of Baltimore, in the State of Maryland,
Land, of the first part, and William E. Hammond, of Baltimore
County, in the State of Maryland, of the second part,
Witnesseth, that for and in consideration of the sum of Five Dollars
and for other good and valuable considerations, the receipt whereof
is hereby acknowledged, the said Edwin M. Lilly and Loretta
Lilly, his wife, do grant and convey unto the said William
E. Hammond, his heirs and assigns, in fee simple, all that
lot of ground situate in Baltimore County, and described as
follows, that is to say:
Beginning for the same at a point on the North side of the
County Road, leading from Dover to Kirtlandtown and at the
Southeast corner of lot No. 5; and running thence bounding
on the North side of said road, North Eighty and one-half De-
gree East, Two Hundred and Seventy-one feet to a bounded
White Oak Tree; thence still bounding on said Road, North
Sixty-eight Degree East, Thirty feet to the Northwest corner of
lot No. 13; thence bounding on said lot, North Twelve Degree
West Three Hundred and Twelve feet to a corner between lots
No. 9 and No. 16; thence bounding on lot No. 9, North Seventy
three and one-half Degree West One Hundred and Thirty
feet and six inches, thence North Seventy-nine and one-half
Degree West One Hundred and Seventy feet, to the center of
an Avenue, Forty feet wide as laid down on a plat hereinafter
mentioned in this description, and at the end of a line
drawn along the center of said Avenue, North Eleven and
one-half Degree West, Three Hundred feet from the beginning;
thence reversing said line and bounding thence North,
Eleven and one-half Degree East, Three hundred feet to the
beginning, containing, Two Acres and Ten One-hundredths
of an acre of land, more or less.
Being and comprising lots Nos. 4, 7 and 8, as marked on

We, the undersigned residents of Glyndon, request that our
names be removed from the Petition in Support for Special Hearing
and Variance, Item No. 67, Case No. 92-71-SPHA, filed by Fred and
Abigail Goldman for the property known as No. 2 and 2A Waugh
Avenue, Glyndon, Maryland.

NAME	ADDRESS
1. Kim Montague	4609 Prospect Ave. Glyndon MD 21071
2. Thom R. Montague	4609 Prospect Ave.
3. Mildred Londen	32 Waugh Ave Glyndon
4. William P. DeSandro	4605 Prospect Ave Glyndon
5. Jean DeSandro	4605 Prospect Ave.
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	
15.	

PROTESTANT'S EXHIBIT No 3

Glyndon Community Association
David M. Porter, President
4611 Butler Road
Glyndon, Maryland 21071
October 15, 1991
PROTESTANT'S EXHIBIT No 4
Mr. Larry Schmidt
Baltimore County Zoning Commissioner
111 West Chesapeake Avenue
Towson, Maryland 21204
Re: Petition for Zoning Variance -- Fred and Abigail Goldman
2 Waugh Avenue, Glyndon, Maryland 21071
Dear Commissioner Schmidt:
I am the president of the Glyndon Community Association. On
Wednesday, September 11, 1991 the Association held a regular
meeting of the membership at which the Goldman Petition for
Zoning Variance was discussed. At the request of Mr. Goldman, I
read to the membership a letter from the Goldmans stating their
intention to build a house for themselves on the land in question
and offering to meet with members or committees of the
Association to address any concerns. The community has taken a
substantial interest in this Petition. The Goldmans' plans were
known, and had been discussed at length in the community, well in
advance of the meeting.
After some discussion, a motion was made to oppose the
Goldmans' plans to build a second house on their property. The
motion carried by a vote of 65 to 1, with the Goldmans
abstaining. Among the reasons for the community opposition to
this plan are the following:
1. The Goldmans' plan to build a new house in what is
essentially their side yard would diminish the historic setting
of their existing house, would alter the character of the
immediate neighborhood, and would establish a very unfortunate
precedent that could threaten historic towns throughout the
county.
The Goldman property is within the Glyndon historic
district, both under federal law and under Baltimore County
historic district legislation. Glyndon was the first town to be
so designated by Baltimore County, and the Baltimore County
Master Plan calls for more restrictive, not less restrictive,
zoning enforcement within designated historic districts. One of
the distinguishing characteristics of older towns like this is
their sense of spaciousness, caused primarily by an uncrowded
layout and ample yards surrounding substantial houses. This sort

Historic Glyndon Incorporated
October 14, 1991
Baltimore County Department of Planning and Zoning
111 West Chesapeake Avenue
Towson, Md. 21204
Dear Commissioner:
The Board of Directors of Historic Glyndon Incorporated voted at its
last meeting to oppose the requests for variances sought by Mr. and Mrs.
Goldman for the lot located between the properties known as 2 and 4 Waugh
Avenue. We see three areas of concern.
First, the houses located on the adjoining properties are large ones, and
the addition of another home seems out of place and visually incongruent
with the present buildings. Therefore, a new home of any type seems
inappropriate in terms of the historic designation and in terms of the
neighborhood ambience.
A second concern is safety. Parking near the intersection of Waugh
and Butler is already a problem. UPS trucks scurrying to local businesses,
school buses picking up and dropping off children, and traffic rushing off
Butler Road or blindly trying to enter Butler cause dangerous encounters
daily. Because existing homes at this intersection share limited on-street
parking, adding another home so close to this intersection would further
exacerbate this dangerous traffic situation.
Our last concern centers on the fate of this and other small lots in
Glyndon. It is our understanding that the Childs were told that this lot was
not a buildable one when they purchased their home. If the Department of
Planning and Zoning sees these lots as appropriate for building, then buyers
of contiguous properties need to be told this. However, in this case the lot
was designated as too small for development, and that evaluation should
stand.
For these reasons, Historic Glyndon Incorporated opposes the requested
variances.
Yours truly,
Barbara C. Whitman
Barbara C. Whitman
President
PROTESTANT'S EXHIBIT No 5

RESOLUTION

of the Glyndon Community Association, Inc. dated May 8, 1992

WHEREAS, there was a general meeting of the membership of the Glyndon Community Association, Inc. on Wednesday, September 11, 1991;

WHEREAS, the Association voted at that meeting to oppose the granting of any of the zoning variances requested by Fred and Abigail Goldman in their petition before the Baltimore County Zoning Commissioner;

WHEREAS, the Association by formal resolution appointed its president, David Porter, to attend the hearing and to present the views of the Association to the Zoning Commissioner;

WHEREAS, the hearing on the Goldman's request for variances was held on Tuesday, October 15, 1991;

WHEREAS, as a result of that hearing the Baltimore County Zoning Commissioner issued a written ruling denying all of the requested variances; and

WHEREAS, the Goldmans have appealed the decision of the Zoning Commissioner;

THEREFORE, the Association adopts the following resolution:

RESOLVED, that David Porter, president of the Glyndon Community Association, Inc., is authorized to attend the appeal hearing before the Baltimore County Board of Appeals to be held on May 13, 1992 concerning the Goldman property at 2 Waugh Avenue and to testify as to the Association's opposition to the granting of any of the requested variances, and in general to oppose any zoning changes to the property that would permit the Goldmans or any subsequent owner to build a house on the portion of the Goldman property described on the zoning petition as "2A Waugh Avenue".

GLYNDON COMMUNITY ASSOCIATION

Attest: Anna Welsh
Anna Welsh
Secretary

By: David M. Porter
David M. Porter
President

Glyndon Community Association

David M. Porter, President
4611 Butler Road
Glyndon, Maryland 21071

May 12, 1992

Mr. William T. Hackett, Chairman
Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing and Zoning Variance --
Fred and Abigail Goldman
2 Waugh Avenue, Glyndon, Maryland 21071

Dear Chairman Hackett:

I am the president of the Glyndon Community Association. On Wednesday, September 11, 1991 the Association held a regular meeting of the membership at which the Goldman Petition for Special Hearing and Zoning Variance was discussed. At the request of Mr. Goldman, I read to the membership a letter from the Goldmans stating their intention to build a house for themselves on the land in question and offering to meet with members or committees of the Association to address any concerns. The community has taken a substantial interest in this Petition. The Goldmans' plans were known, and had been discussed at length in the community, well in advance of the meeting.

After some discussion, a motion was made to oppose the Goldmans' plans to build a second house on their property. The motion carried by a vote of 65 to 1, with the Goldmans abstaining. Among the reasons for the community opposition to this plan are the following:

1. The Goldmans' plan to build a new house in what is essentially their side yard would diminish the historic setting of their existing house, would alter the character of the immediate neighborhood, and would establish a very unfortunate precedent that could threaten historic towns throughout the county.

The Goldman property is within the Glyndon historic district, both under federal law and under Baltimore County historic district legislation. Glyndon was the first town to be so designated by Baltimore County, and the Baltimore County Master Plan calls for more restrictive, not less restrictive, zoning enforcement within designated historic districts. One of the distinguishing characteristics of older towns like this is

Historic Glyndon Incorporated
(Incorporated March 1987)

May 11, 1992

To Whom It May Concern:

Historic Glyndon Incorporated is an historic organization of 130 members. The territorial boundary of Historic Glyndon Incorporated, as stated in the by-laws, "shall be the community known as Glyndon, Maryland, which shall be deemed to contain the areas known as 'Emory Gove' and 'St. George's' and which shall be deemed to contain the property known as the 'Sacred Heart Catholic Church' on Sacred Heart Lane, Glyndon, Maryland."

The Board of Directors is authorized by the by-laws of the Corporation to conduct all business, including items related to zoning issues. The Board has resolved that Mrs. Ann Welsh is authorized to present our views with respect to the requested variance, Case # 92-71-SPHA.

Yours truly,

Barbara C. Whitman
Barbara C. Whitman
President

Lynne Maher
Lynne Maher
Secretary